United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *106th* CONGRESS, FIRST SESSION

Vol. 145 WASHINGTON, TUESDAY, MARCH 16, 1999 *No. 41*

Senate

The Senate met at 10:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

God of grace and God of judgment, we present our lives for Your review and Your regeneration. In the bright light of Your truth, we see ourselves as we really are and ask for the power to become all that You meant us to be. We pray that we will be distinguished for our integrity. Help us nurture that quality of undivided wholeness and unimpaired completeness. Strengthen our desire to have congruity between beliefs and behavior, consistency between what we know is honest and what we do. Particularly, we ask You to refortify the Senators' determination to have You guide their convictions and then give them the courage to vote these convictions. May their lives and their leadership reclaim the admiration of the American people for political leaders and the political process. Through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader, Senator LOTT of Mississippi, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning the Senate will begin consideration of a resolution commending Senator KERREY on the 30th anniversary of his receiving the Congressional Medal of Honor. I had the pleasure of talking to Senator KERREY late last night, as a matter of fact, as he typically was working aggressively on matters of great interest to our country. I think it is appropriate that we have this resolution before us. Under the previous order, there will be 1 hour for consideration of the resolution, with the time equally divided between Senators HAGEL and EDWARDS or their designees.

At 11:30 a.m., the Senate will resume consideration of S. 257, the national missile defense bill, with a Cochran amendment pending regarding clarification of funding. Under a previous consent agreement, there will be 1 hour for debate on the amendment, equally divided between Senators COCHRAN and LEVIN or their designees.

At the conclusion of that debate time, the Senate will recess until 2:15 p.m. to allow the weekly party caucuses to meet. Upon reconvening at 2:15, the Senate will immediately proceed to a vote on or in relation to the Cochran amendment. And further votes are expected throughout Tuesday's session as the Senate continues consideration of the missile defense bill.

MEASURE PLACED ON THE CALENDAR—S. 609

Mr. LOTT. I understand there is a bill at the desk due for its second reading, Mr. President.

The PRESIDING OFFICER (Mr. BENNETT). The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 609) to amend the Safe and Drug-Free Schools and Communities Act of 1994 to prevent the abuse of inhalants through programs under that Act, and for other purposes.

Mr. LOTT. I object to further consideration of the bill at this time.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the Calendar.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, with regard to the missile defense bill, it seems to me good progress is being made. And the fact that we did not have to have a vote on a motion to proceed or on cloture on a motion to proceed was a very positive development.

I hope the Cochran amendment can be adopted and perhaps other action taken today, but if we could actually get to final passage of this bill tonight, that would be very positive, because we do have two other issues we would like to be able to consider in some form this week. One of them is the matter of Kosovo, how the Senate wishes to express itself on that issue and how ground troops would be introduced, if at all. And then also we have the emergency supplemental appropriations bill pending. Next week, the entirety of the week will have to be spent on the budget resolution in order to complete action on that before the Easter recess. So the sooner we can finish the missile defense bill, the better it will be in addressing these other issues in a timely fashion.

Mr. President, I know that Senators HAGEL and REID and EDWARDS are in the Chamber and wish to speak on the resolution commemorating this Congressional Medal of Honor given to Senator KERREY, but I would like to take just 5 minutes or so to talk about the missile defense bill.

NATIONAL MISSILE DEFENSE ACT

Mr. LOTT. Mr. President, I rise in support and am a proud sponsor of S. 257, the National Missile Defense Act of 1999. If enacted, it would make the policy of the United States to deploy, as soon as is technologically possible, an effective national missile defense system capable of defending the territory of the United States against limited ballistic missile attack, whether accidental, unauthorized, or deliberate.

As I go around the country and I talk about this issue, people are surprised, stunned, to hear that we do not have this missile defense capability right now. They think that if there happened to be a rogue missile launched, accidentally or even intended, we would be able to just knock that out, no problem. When they find out we do not have

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

that technology in place now, they are greatly alarmed.

So I commend the principal sponsors of this bipartisan legislation, Senator COCHRAN of Mississippi and Senator INOUYE of Hawaii, for their diligent efforts to ensure that all 50 States—indeed, all Americans—enjoy protection against missile attack.

My colleagues are aware that similar legislation has been brought before the Senate before—twice last year—and twice we failed, just one vote short of cutting off a filibuster. I am glad it appears we may not have a filibuster this time, that we can deal with the substance of this bill and we can vote on amendments and hopefully get to final passage, because it is clear there is bipartisan support and the realization that we need to move forward.

I know there are those who are concerned that it could be misinterpreted what we are trying to do here and what are the ramifications with regard to the ABM Treaty, the Anti-Ballistic Missile Treaty. My answer to that is that we should make it clear what our intentions are. This is a defensive mechanism; this is to go forward and develop the technology, and when we have that technology, then we should move to deploy it. But we would have time to explain to one and all—whether it is Russia, members of the Russian Duma or the federation in Russia, their leadership, or members of the Israeli Knesset—what our intentions are.

To make sure that is done, I have been discussing with the President and with Senator DASCHLE, and with others on both sides of the aisle, the idea that we should set up a working group, patterned after the example of the arms control observer group that served us quite well during the 1980s and early 1990s when we were dealing with the SALT treaties and we were trying to get disarmament agreements worked out in Europe and with the Soviet Union.

We had Senators and Members of Congress who met with representatives of the then Soviet Government. We went to the Soviet Union. We had them come here. We had meetings in Geneva. And I believe that Members of the Senate who were involved will tell you it was very helpful. I discussed it with Senator MOYNIHAN just yesterday at lunch, and he said clearly when he went to Geneva and met with the Russians and explained what our intentions were, and they talked about their concerns about cruise missiles in Europe, that everybody had a better understanding.

So what I have advocated is that we set up a group which would be entitled something like this, although I am not wedded to a title, but the national security and missile defense working group, and that Senator COCHRAN would chair that group. I understand Senator DASCHLE has some Senators in mind on his side of the aisle—it would be equally divided—who would be involved in this effort. It would be a follow-on to what we are trying to do with the National Missile Defense Act. I hope that before this day is out we can set up this group and it will represent a broad cross section of the Senate so that everybody will understand what is intended.

There are real dangers here. ''The threat is real, serious, and growing.'' That is not my quote. That is a quote of the Central Intelligence Agency, an analyst who works in this critical area.

Let me recite what has happened since March of last year: Pakistan launched a medium-range missile that it acquired from North Korea; China and North Korea continue to provide Pakistan with technical and other assistance on missiles and nuclear weapons; Iran launched a medium-range missile. The original design also came from North Korea. It was improved by technology that it has been receiving from Russia and China. Up to this day, Russian companies are still exchanging technology and information with Iran. They are developing greater capability. That is extremely dangerous.

While Congress has expressed its concern about this, the administration has even taken actions against certain companies in Russia. It continues to this very moment. We know that Iran is interested in developing and acquiring a long-range missile that could reach—yes—the United States as well as European capitals and that Tehran is benefiting from this extensive assistance from Russia and from China.

North Korea is a very nervous situation. That country launched a long-range missile last August that demonstrated both intent and capability to deliver payloads over extremely long distances. Having been advised of this development, the CIA now concludes that the North Koreans ''would be able to use the three-stage configuration as a ballistic missile. . .to deliver small payloads to ICBM ranges.'' With minor modifications, this missile, the CIA notes, could probably reach not only Hawaii and Alaska but also the rest of the United States.

The People's Republic of China, PRC, likewise continues to engage in a massive buildup of its missile forces both at the theater level—that is aimed against our friend, Taiwan, their neighbor—and the strategic level—aimed at, perhaps, even the United States.

Today the PRC has more than a dozen missiles aimed at American cities. Yet, we are told on occasion there is not a missile aimed at the United States today. That is not true. The Chinese are in the process of developing multiple warheads for those and their next-generation mobile missiles, which are much more difficult to locate.

Sadly, there is a serious problem here, and it is one that is growing. Just recently, of course, is the situation brought to the public's attention regarding China's nuclear espionage and how we are dealing with that. There are those wanting to know, How did this happen? Who did it? Who is to blame? All of that is interesting and we should determine that, but here is the real question: Is it still going on? Have we stopped it?

I think Congress should take a serious look at this situation. We need to deal with some laws to make it possible for us to stop this sort of espionage. Do they need additional money? We would need to have the appropriate briefing from the Energy Department and the CIA to judge whether or not additional money should be needed.

This post-cold-war era is a unique time, but it is also a dangerous time. It is a time when historically, reviewing what we have done in the past, we drop our guard when there appears to be times of calm and peace, but I think that is when we are at our greatest danger. Our inability to defend against incoming accidental or rogue-launched missiles is our Achilles' heel. It is where we are in the greatest danger. Would we not act? Should we not begin the process now? The truth of the matter is we should have already done it. If we don't, there will come a time soon—perhaps early in the millennium—when we will, in fact, be threatened and in serious danger.

This National Missile Defense Act will get us started. It will be the kind of progress we need. We will still have to make the decisions about the appropriations and when we actually go forward with deployment. I sense there has been movement in the Senate on this issue. I know there has been movement in the administration on this issue. Now is the time to act. I hope the Senate will do it in an expeditious and bipartisan manner. I believe we will look back on this bill and this vote as one of the most significant votes that we take in the year 1999.

I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. EDWARDS. Mr. President, I ask unanimous consent that Bill Beane, a fellow on my staff from the Department of the Army, be allowed floor privileges during the course of this Congress for all matters relating to defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDATION OF THE HONORABLE J. ROBERT KERREY ON THE 30TH ANNIVERSARY OF HIS RECEIVING THE MEDAL OF HONOR

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 61) commending the Honorable J. Robert Kerrey, United States Senator from Nebraska, on the 30th anniversary of the events giving rise to his receiving the Medal of Honor.

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. It is my understanding there is 1 hour reserved.

The PRESIDING OFFICER. The Senator is correct. There is 1 hour equally divided under the control of the Senator from Nebraska and the Senator from North Carolina.

Mr. EDWARDS. Mr. President, the order we intend to follow to speak on this resolution will be myself first, followed by the Senator from Nebraska, Mr. HAGEL, Senator MOYNIHAN will speak next, followed by Senator REID from Nevada.

Mr. President, this resolution is supported by all Senators, other than Senator KERREY.

I will talk for just a moment about how I got to know Senator KERREY and what I have learned about him. Senator KERREY and I first met about 2 years ago when I was looking for a new job, the job that I presently have as U.S. Senator from North Carolina. At the time, Senator KERREY was the head of the Democratic Senatorial Campaign Committee. I came here to Washington to meet with Senator KERREY and was grilled by him on why I was seeking this office, what my motivations were, and why I thought I should be able to represent the people of North Carolina in this esteemed body.

Over the course of brief time through campaigning and spending lots of time together, we have gotten to know each other very well. He is the definition of a leader, in my mind. Here is a man who is independent, clear thinking, always willing to speak his mind regardless of the politics, willing to speak against his own political party if he believes that his position is right and just, who cares a great deal and empathizes for the plight of others.

He has done an extraordinary job during the time I have seen him work here in the Senate during the brief time that I have been here. He is the kind of Senator who many of us young Senators would like to emulate.

I want to talk for just a minute about the events that give rise to this resolution. Thirty years ago this past Sunday, Senator KERREY, when he was a Navy SEAL, commanded a unit of Navy SEALs that were involved in an attack on the Vietcong. His unit scaled a 350-foot shear cliff in order to position themselves for the attack.

During the course of the attack on the Vietcong, a grenade exploded at the feet of Senator KERREY. He was severely injured by the grenade, but in spite of these severe injuries, which eventually led to the loss of a part of his leg, he continued to direct the attack in a clear-thinking way that eventually led to victory by this Navy SEAL team.

The work he did on that day was extraordinarily courageous and showed the leadership that we have come to know over the last 30 years since that event occurred. He went from that event to winning the Medal of Honor for the events that occurred on that day, and from that place to a veterans hospital in Philadelphia for a long, long period of recuperation.

I will first read the last sentence of that citation that he received at the time he received his Medal of Honor, which I think encapsulates what Senator KERREY did 30 years ago this past Sunday.

> KERREY's courageous and inspiring leadership, valued fighting spirit, and tenacious devotion to duty in the face of almost overwhelming opposition sustain and enhance the finest traditions of the United States Naval service.

The courage and leadership that Senator KERREY showed on that day, as I mentioned earlier, led to his receipt of the Medal of Honor. From there, he went to a veterans hospital in Philadelphia for a long, long period of recuperation and, as he has told many of his friends and colleagues, it was a very difficult time for him. He went from there to becoming a successful businessman, and he eventually became Governor of Nebraska. That led to the time he has spent here in the U.S. Senate.

As I mentioned, Senator KERREY is a man who most of us look up to; he is clear thinking and independent minded. The thing that always inspires me about him is his willingness to speak up even when speaking up is not always in his best political interest or in the best political interest of his party. He, as I mentioned, is the definition of a leader.

I want to mention one quote that I think is critically important in understanding the kind of leadership that Senator KERREY has brought to this body during the time he has been here. It is a quote that he gave recently to a Nebraska newspaper:

> It's odd to say, but this all became a real gift in many ways.

Speaking now of the events that occurred 30 years ago this past Sunday and the injuries he received as a result:

> It's odd to say, but this all became a real gift in many ways. The world got bigger to me. I didn't realize there was so much pain in the world. Up until then, I presumed that if I didn't feel it, then it wasn't happening. But it's going on out there every day. In hospitals. In lots of homes.
>
> I learned that the most valuable, priceless thing you can give anyone is kindness. At the right moment, it can be life-changing.

That is a perfect description of Senator BOB KERREY. It is the reason that he is the extraordinary man and the extraordinary leader and the extraordinary Senator that he has been in this body, and he is the reason that I support, with great enthusiasm, this resolution honoring him.

At this time, I yield for the junior Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska, Mr. HAGEL, is recognized.

Mr. HAGEL. Mr. President, I thank my friend and colleague from North Carolina for helping organize this recognition of our friend and colleague, my senior Senator from the State of Nebraska, BOB KERREY.

In 1979, on the cover of a Newsweek magazine, with a glorious picture of Teddy Roosevelt riding to the charge, the headline blared out, ''Where Have Our Heroes Gone?''

Mr. President, that was in 1979, at a time when many Americans were questioning the very foundation and base of our Government and our society. They were reaching out for inspiration and courage and asking the Newsweek 1979 question, ''Where have our heroes gone?''

There are heroes all around us. One in our midst is the man whom we recognize this morning, BOB KERREY. BOB KERREY is a hero for many reasons. Anyone who has been awarded the Congressional Medal of Honor, our Nation's highest award for valor and bravery, is a hero. But the mark of a hero is what happens after that recognition. What has BOB KERREY done with his life since that time 30 years ago when he, in a selfless, valorous way, led his men and put his men, his duty, his country and his mission above himself? What has happened to this man since?

Well, as he tells the story, in a rather self-effacing way—that is how we Nebraskans are, humble, self-effacing—the only flaw I can find in KERREY is that he was not Army. But other than that defect, he has conducted himself rather well.

The mark of a hero is what one has taken in life—the good, the bad, and all that is in between, and how they have applied that to make the world better, and what they have done to improve the lives of others. That begins with some belief—belief in oneself, belief in one's country, belief in others, belief that in fact God has given us all strengths, resources and weaknesses. As BOB KERREY has often said, there were so many who surrounded him after those days in Vietnam—in the hospital, in rehabilitation—who helped him put his life back together. That is what inspired him. He rose inspired as well. He rose and reinspired, and reinspired, and reinspired. They lead and they never stop and they never stop. That is the story, to me, that is most magnificent about BOB KERREY.

It is appropriate that we recognize one of our own on the floor of the Senate today. I am particularly proud because I come from the State where BOB KERREY was grounded with foundations, with values, with standards, with expectations; and so I know how he has inspired our State. Our colleagues know how he has inspired this body and the people around him, and they know of the lives of the people that he has touched.

For all of those reasons, and more, Mr. President, I am proud to take a moment to share in recognizing the goodness and, yes, the heroism of our friend and our colleague, BOB KERREY. To you, good friend, I salute you.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I am honored, sir, to follow the distinguished Senator from Nebraska and his remarks. And might I begin with a phrase from the old Navy—by which I mean the old, old Navy—when a fellow was mustering out, he would say, ''I'm going to put that oar on my shoulder.'' And the reference was that you were going to put that oar on your shoulder and march inland until you reached a town where someone said, ''Hey, fella, what's that thing you've got on your shoulder?'' And then you could settle down in comfort after years at sea. Nebraska would surely qualify for such a site. This extraordinary man, who left Nebraska, joined the Navy, brought such honor and distinction to himself, and now to the Senate is remarkable indeed.

You've heard of his work. Just a word about the man. Hemingway said that courage was grace under pressure. BOB KERREY has shown that grace from that very moment 30 years ago on that bluff. Michael Barone in the Almanac of American Politics recounts that when asked about the medals he had won, Senator KERREY answered, ''One Purple Heart, one Bronze Star—one whatever.'' Well, the ''whatever'' is, of course, the Congressional Medal of Honor. There have been—all told—five U.S. Senators to have won that medal. It was created during the Civil War. Four of the senators received the medal for service in the Civil War. And now, 134 years later, a fifth.

BOB KERREY does do such honor to this body, as he has done to his country, with grace under pressure. Perhaps nothing more distinguished him than the long and difficult time in the Philadelphia Naval Hospital witnessed by many, including the marine Lewis Puller, Jr.—son of the most decorated marine in history. He wrote of Senator KERREY, ''His stoicism, though unnerving, was a source of amazement to all.'' It continues such. It continues with an evenness that can be eerie at the same moment it is inspiring. Robert Novak has recently written that what sets Senator KERREY apart is how ''unashamedly he preaches love of and service to country.'' And so, sir, from another generation and in a far distant conflict, this lieutenant junior grade salutes him and would have the Senate know—those who don't—that when a Medal of Honor winner appears anywhere on ship, the answer is, ''Attention all hands.'' He is to be so saluted on all occasions and honored throughout his life, and for the extraordinary legacy he will one day leave.

I salute you, sir.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The distinguished Senator from Nevada is recognized.

Mr. REID. Mr. President, I yield 1 minute to the junior Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 1 minute.

Mr. ROBB. Thank you, Mr. President. I thank my friend from Nevada for yielding. I will be very brief.

Mr. President, I happened to be serving in the Republic of Vietnam at the time that this particular act of heroism was made. I am more than a little familiar with the criteria for the particular award that was given. Almost any major award for gallantry is subject to some degree of subjectivity. This is the one that is clearly proven beyond any reasonable doubt to have been awarded meritoriously under any and all circumstances.

I join all of my colleagues who are here, including those veterans who served in Vietnam with our distinguished Senator, and I thank my colleague for yielding. This is one that makes all of us proud.

I yield the floor.

Mr. REID. Mr. President, Groucho Marx used to say that he wouldn't belong to any club that would have him as a member. I get that feeling about the very small club consisting of those who have been awarded the Medal of Honor.

Nobody asks to join, the price of admission is too high. Nobody applies, the rules don't permit applications.

You get in this select club by doing something that no one would do, or should I say rarely does, and most of the time you pass the test by not surviving it.

I dare say that if BOB KERREY had been offered membership in this club as a volunteer, he would have declined. But membership isn't voluntary.

Once you have performed those acts of outstanding courage, of valor, of heroism—above and beyond the call of duty—once you have come through the valley of the shadow of death and into the light—once you have, in the unique circumstances of military combat, saved lives and taken lives and in most instances, given your own life, to qualify for the medal—you are a marked man.

BOB KERREY bears that mark. That mark shows through his grace, and his intelligence and concentration and wit—aspects with which, I dare say, many in our body are handsomely endowed.

That mark shines above his hard work, love of country, and respect for his fellow members—qualities which most here share in ample quantity.

That mark transcends every other skill or point of character which makes us all unique human beings. The mark BOB KERREY bears is his having given one of his limbs for our country.

The mark BOB KERREY wears is his unique courage, his honor, his valor. He shows it in his daily life, in his political decisions, and in his dealings with the world.

BOB KERREY, when dealing with entitlements, education, Iraq, and farm issues, has shown unparalleled courage. But, to me he is simply my friend.

Thirty years ago, on an island in Southeast Asia, ten thousand miles from the Senate Chamber, Navy Lt. BOB KERREY did something above and beyond the call of duty. If he did nothing else with the rest of his life, we would, as Americans, honor him for what he did on that island far away.

I suspect, however, when the time comes—as for all of us it must—to summarize this man's contributions to his friends, his Nation, and the world—the Congressional Medal of Honor will be cited, not as an award which shaped the man, but rather as just one example in a life and litany of courage which has known no bounds and which serves as a Platonic example for the rest of us to pursue, but never to achieve.

Thank you, Senator BOB KERREY, for sharing with the people of Nebraska, this Nation, and each of us who serve with you—your exemplary life.

The PRESIDING OFFICER. The distinguished Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, ''It was my duty.'' So did my friend and colleague BOB KERREY recently respond to a question by CBS' Bob Schieffer, who had asked my friend why he did it—why he led his elite SEAL team up a 350-foot sheer cliff and then down into the waiting enemy's camp, suffering life-threatening injuries in the process but effectively commanding his team throughout their successful mission.

For then-Lieutenant KERREY, his duty was his honor, and his country's cause was his highest calling. That a young man from the plains of Nebraska showed ''conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty'' in Vietnam, as his Medal of Honor citation recalls, reminds us that exceptional heroism can spring from the humblest of roots.

It was his duty, BOB says. Near the very beginning of the assault on the Viet Cong camp, a grenade exploded at his feet, injuring him terribly and threatening the success of the mission. In similar circumstances, many men, incapacitated and bleeding, might have given up. Not BOB. His sense of duty did not allow it.

His sense of duty compelled him to fight on, despite the trauma of sustaining multiple injuries, including one that would take his leg, and despite the chaos of battle, which has undone other good men who have found themselves in less dire circumstances.

BOB's courageous leadership won that battle on a Vietnamese island in Nha Trang Bay thirty years ago. ''I don't remember doing anything especially heroic,'' says the plain-spoken Nebraskan. Although I do not know the men BOB commanded on that fateful day, I do know that their testimonial to his selfless heroism ensured that history recorded my friend's sacrifice.

That record, in the form of BOB's Medal of Honor citation, has surely inspired countless Americans in uniform

over the past thirty years. As my colleagues know, it is with reverence and awe that uniformed service members and veterans speak of America's Medal of Honor recipients. They are, indeed, the heroes' heroes.

I myself am privileged to have served in the United States Navy, as did my father and grandfather before me. They would tell you, as I do today, how honored we all should be to know a man like BOB KERREY, a man whose fighting spirit earned him the nation's highest award for exceptional military service above and beyond the call of duty.

I am deeply honored to serve in the Senate with BOB. Ironically, he would be the first to tell you that he felt little calling for public service when he came home from Vietnam. For he came home not only with a broken body, but with an understandable resentment about the war, and toward those politicians in Washington who conducted it.

BOB's faith in our Nation and the values she embodies was reaffirmed by his military service. ''It's a great country that will fight for other people's freedom,'' he says. But his faith in his Government was shaken, as was that of many Americans, after the divisive experience of Vietnam.

What restored BOB's faith in his Government? By his reckoning, it was the Philadelphia Naval Hospital where he spent months in surgery and therapy. As BOB has said, the fact that our Government would build and fund a hospital for people like him—anonymous people who had never contributed to a politician's campaign—and provide the medical care they needed, simply because they were wounded Americans, was inspirational. So were the medical staff and volunteers who helped heal his wounds.

Faith renewed, BOB went on to become Governor of Nebraska and a U.S. Senator. His independent leadership on some of the toughest issues we face today, including Social Security, education, and tax reform, demonstrates that this man, who gave so much for his country in military service, makes an important contribution to America's governance in peacetime.

In the words of BOB's Medal of Honor citation:

> Lt. (j.g.) Kerrey's courageous and inspiring leadership, valiant fighting spirit, and tenacious devotion to duty in the face of almost overwhelming opposition sustain and enhance the finest traditions of the U.S. Naval Service.

That leadership and sense of duty continues to motivate his public service today.

BOB's contribution to America's governance may grow. Although he will sit out next year's Presidential race, he may be a contender in the future. In the meantime, I am honored and privileged to work with him in the Senate.

Thank you for your valued service, BOB.

I yield the floor.

The PRESIDING OFFICER. The distinguished Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I commend the distinguished Senator from Arizona for his eloquence, as well as the Senator from Nevada, whom I also heard. I thank the Senator from North Carolina for making the effort to allow us this opportunity on the floor this morning.

Mr. President, last week, when Joe DiMaggio died, I heard many people say it is a shame how few heroes there are left among us. To anyone who believes that, I say: Meet my friend, BOB KERREY. To me and to many others, he is a genuine American hero.

As others have noted, on a moonless black night, 30 years ago this past Sunday, Lieutenant KERREY, then a 25-year-old Navy SEAL commander, led his squad in a surprise attack on North Vietnamese Army guerillas on the island of Hon Tre.

During the fierce firefight that broke out, an enemy grenade exploded on the ground beside him. The blast shattered his right leg below the knee, badly wounded his right hand, and pierced much of his body with shrapnel.

Despite his massive injuries, Lieutenant KERREY continued to direct his squad until the last man was safely evacuated. Days later, doctors were forced to amputate his injured leg just below the knee. Lieutenant KERREY had been in Vietnam only 3 months.

For his sacrifice, he was awarded the Bronze Star, the Purple Heart, and the highest award our nation bestows for bravery, the Congressional Medal of Honor. But it is not only what others pinned over his heart that makes BOB KERREY a hero. It is what is in his heart.

JOSEPH ROBERT KERREY returned from Vietnam angry and disillusioned. What he endured in Vietnam, and what he saw later at the Philadelphia Naval Hospital, where he spent nine months learning how to walk again, shook his faith—both in the war, and in the Government that had sent him there. It forced him to re-examine everything he had ever believed about his country. But slowly, out of his pain and anger and doubt, he began to acquire a new faith in this Nation.

Years ago, when he was Governor of Nebraska, he described that faith to a reporter. He said, ''There are . . . people who like to say, 'You know all these subsidy programs we've got? They make people lazy.' And I like to jump right in their face and say, that is an absolute lie.'' Government help ''didn't make me lazy. It made me grateful.''

Another time, he put it more simply. While government ''almost killed me'' in a war, he said, government also ''saved my life.''

It was the United States Government, he said, that fitted him with a prosthesis and taught him to walk again. It was the Government that paid for the countless operations he needed. Later, in 1973, it was the Government that helped him open his first restaurant with his brother-in-law. Two years later, when that restaurant was destroyed in a tornado, it was the Government—the people of the United States—that loaned them the money to rebuild.

As Governor and, for the last 11 years, as a Member of the Senate, BOB KERREY has fought to make sure Government works for all Americans. He has fought to make health care more affordable and accessible.

He has fought to give entrepreneurs the chance to turn their good ideas into profitable businesses. He has fought to make sure this nation keeps its promises to veterans.

He has also fought tirelessly to preserve family farms and rural communities.

For several years now, I've had the good fortune to serve with Senator KERREY on the Agriculture Committee. I know how deeply committed he is to restoring the agricultural economy.

In 1994, he played a key role in preserving the Federal crop insurance program, and today, with the Presiding Officer he is one of the leaders in the effort to strengthen it again, so we reduce our over-reliance on disaster programs and make the system fairer and more predictable for producers.

Senator KERREY is continually looking for new ways to create new opportunities for American farmers. He is a strong supporter of ethanol, and of increased agricultural research. He is committed to preserving the integrity of the U.S. food supply, so that we continue to have the safest, most abundant, most economical food supply in the world.

Like Senator KERREY, I come from a state that is made up mostly of small towns and rural communities, so I am personally grateful to him for his efforts to help agricultural producers. I am also grateful for his insistence that rural America be treated fairly on a whole array of critical issues, from expanding the information superhighway, to improving our health care system, and strengthening the schools America's children attend, especially in rural areas.

But Senator KERREY's greatest contribution to this Senate, and to this Nation, may be that he is not afraid to challenge conventional wisdom. In 1994, almost single-handedly, he created and chaired the Bipartisan Commission on Entitlement and Tax Reform. Conventional wisdom said, don't get involved with entitlements. You can't make anyone happy; you can only make enemies.

But BOB KERREY's personal experience told him that preserving Social Security and Medicare was worth taking a risks—risking some political capital. He has repeatedly opposed efforts to amend our Constitution to make flag-burning a crime. It is politically risky, even for a wounded war hero, to take such a position. But Senator KERREY has taken that risk, time and time again, because—in his words:

> America is a beacon of hope for the people of this world who yearn for freedom from the

despotism of ''repressive government.'' This hope is diluted when we advise others that we are frightened by flag burning.

He is, at heart, a genuine patriot.

He was born in Lincoln, Nebraska, one of 7 children. His father was a builder, his mother was a housewife. As a child, he suffered from such severe asthma that one of his teachers later said, when he breathed, he sometimes sounded like a fireplace bellows. Despite his asthma, he was on his high school basketball, football, golf and swim teams. Is anyone surprised?

After high school, he went to the University of Nebraska, where he finished his 5-year pharmacy program in 4 years. His asthma likely would have given him a legitimate way to avoid military service, but he wasn't looking for a way out.

Shortly after he graduated, he enlisted in the Navy as an officer candidate. The Navy was then just starting its elite SEALs program, the Navy's version of the Green Berets. Of the 5,000 men who applied for underwater demolition training with the SEALs, only 197 were selected, and only about 60 made it through the brutal training. His plan was to do his duty with the SEALs and return to Nebraska to work as a pharmacist. He made the SEALs, with asthma. Is anyone surprised?

But then that all changed on that black night 30 years ago. When he finally got the chance to practice pharmacy after he had been put back together at the naval hospital, he discovered he could no longer stand for as long as the job required. Changing courses, he and his brother-in-law started a restaurant. Eventually they would own several restaurants and health clubs and employ more than 900 people. Is anyone surprised?

In the beginning, they did everything themselves, from tending bar to flipping burgers to washing dishes. Is anyone surprised?

He entered politics in 1982, beating an incumbent Republican Governor in a heavily Republican State. At the time, Nebraska was in the middle of a terrible budget and farm crisis. Over the next 4 years, he replaced the 3-percent deficit he inherited with a 7-percent surplus. Knowing BOB KERREY, is anyone surprised?

He never received lower than a 55-percent approval rating for the entire time he was Governor. In 1985, when he stunned Nebraskans by announcing that he would not seek a second term, he was at a 70-percent approval rating.

After the Governor's office, he went briefly to Santa Barbara, CA, where he taught a college class on the Vietnam War with Walter Capps. In 1988, Nebraskans elected him to the U.S. Senate. In 1992, he ran for our party's Presidential nomination. He is a fierce defender of Nebraska's interests and a national leader as well.

This Senate is enriched by the contributions of many heroes from different wars, Mr. President:

MAX CLELAND, who lost an arm and both of his legs in Vietnam, holds a Silver Star. CHUCK HAGEL holds two Purple Hearts. FRITZ HOLLINGS holds a Bronze Star. DANNY INOUYE lost an arm in Italy in World War II. He was awarded a Purple Heart, a Bronze Star, and the Distinguished Service Cross. JOHN KERRY holds the Silver Star, the Bronze Star, three Purple Hearts, the National Defense Service Medal, and two Presidential Unit Citations. JOHN MCCAIN spent 5½ years in hell as a POW. He holds a Silver Star, a Bronze Star, a Legion of Merit honor, a Purple Heart, and the Distinguished Flying Cross. BILL ROTH holds a Bronze Star. TED STEVENS was awarded two Distinguished Flying Crosses and two Air Medals in World War II. Many other Senators served with distinction as well in times of peace as well as in times of war.

One Senator among us holds the Congressional Medal of Honor. To him, this Nation is indebted for all that he did to achieve it.

I am reminded of a story Senator KERREY has told many times about a conversation he had with his mother 30 years ago. Doctors at the Philadelphia Naval Hospital had just amputated his leg. When he awoke from surgery, his mother was standing at his bedside. ''How much is left?'' he asked her.

His mother said, ''There's a lot left.'' As Senator KERREY says, ''She wasn't talking about body parts. She was talking about here.'' She was talking about what is in his heart.

For 30 years, BOB KERREY has drawn on the courage and compassion of what is here—first to rebuild his own life, then to try to make a better life for people in Nebraska, and then for people all across this country. He is to me a genuine American hero, and he is my friend.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Utah.

Mr. BENNETT. Mr. President, I can't pass up the opportunity to embarrass BOB KERREY. I know, as we all do, that he did not ask for this and that it is always uncomfortable to come to your own wake, but he deserves it. I want to participate in it and do what I can to not only add to his embarrassment a little, but to let him know how well regarded he is on both sides of the aisle and among those who may disagree with him on all of the great issues that the minority leader just listed.

I served in the military at a time when the only shots I ever heard fired were in basic training. After I got out of basic training, I ended up in classroom and spent my time trying to teach surveying to a group of draftees who didn't understand what the word meant. The only reason I was doing that is because my particular military specialty, for which I was being trained, was being phased out in the way the military always does. They train you for an obsolete skill and then make you an instructor to teach that skill to other people who do not need it.

I have absolutely no basis for identifying with the group, the very small group of people who have heard shots fired in anger, who have faced the difficulty and the challenge of combat. I can only read about it. I can only hear about it. I cannot identify with it in any personal way.

So why am I taking the time to stand here and talk about the contribution of BOB KERREY when everyone who has had those kinds of experiences has talked about it? I am standing because of an experience I had 2 years ago—3 years ago now—with the former majority leader, Bob Dole. I was on the campaign trail with Senator Dole, and we were out making the usual kinds of stops. I was told our next stop was in Battle Creek, MI. Battle Creek, MI, to me means breakfast cereal. I had no idea why Senator Dole wanted to go to Battle Creek, MI.

We went into a building in Battle Creek, a Federal building. It was under renovation, but the lobby had not been renovated. I felt as if I had walked into a movie set. It was the 1940s all over again. This building, being renovated into a Federal office building, had been a Federal hospital. It was the hospital where Bob Dole spent, on and off, 3 years of his life. They had found the place—that is, the floor—where Bob Dole's bed had been when he was taken there in a condition where he could do nothing for himself. He couldn't brush his teeth himself. He certainly couldn't go to the bathroom for himself. He was just taken there and placed in a bed and left there, as they began to work on him.

We walked around the floor. As I say, it was being renovated. Finally, Senator Dole identified the place on that floor where his bed had been. He stood there and said, ''Yep, that's the view out of the window; that's where the bathroom was, where I would be wheeled,'' so on, so forth. ''Okay, let's go.''

It was the working press that said, ''Wait a minute, Senator. Don't leave. Tell us how you feel.''

Probably for the first time in public, Bob Dole told us what it was like in a military hospital without any prospects, without any immediate hope, completely paralyzed by his condition. The thing that struck me the most and the thing that brings me to my feet today was his description of some of the other things that happened in that war.

He said, catching me completely by surprise, ''Over there was where Phil Hart had his bed.''

And he said, ''Over there''—or maybe it was down the hall—''was DANNY INOUYE.'' He said, ''Phil wasn't hurt as badly as the rest of us, so he could get out from time to time. The Hart family owned a hotel down the street, and he would go down to the hotel and get some decent food for us and smuggle it in so that we didn't have the hospital food all the time.''

He said, ''DANNY INOUYE was the best bridge player in the whole hospital.''

Subsequent to that, I talked to Senator INOUYE on the subway and said, ''I understand you were the best bridge player in the hospital in Battle Creek.'' He said, ''Oh, no, I wasn't very good; it's just that Dole was terrible.''

Then Bob Dole said, ''As I got a little better, they began to move my bed around the hospital, because I could tell jokes and I would cheer some of the others up.''

Why do I bring this up? Of course, we all know Bob Dole. We have named a building after Phil Hart. I don't know what we will name after DANNY INOUYE, but he is still here. I bring this up with respect to BOB KERREY because we honor these men not solely for what they did in the military, not solely for what they did to rebuild their bodies, but for the example they set to rebuild their lives. To me, that is more heroic than the instant in battle when your instincts take over and you do what your duty tells you you have to do. I say that without ever having been there. So I could well be wrong.

But how much heroism is involved in pulling yourself together when you are lying in a bed unable to brush your own teeth and say, ''I'm going to rebuild my body, I'm going to rebuild my life, I'm going to go to law school or found a restaurant,'' or do whatever it is that has to be done to such an extent that you are qualified in the eyes of the voters in the State in which you live to represent them in the U.S. Senate.

We are surrounded by heroes, not just because of what they did while under enemy fire, but what they did in the years following when they gave our children and our contemporaries the example of never giving up, of never allowing what happened to them to destroy them. Bob Dole was such a hero; Phil Hart was such a hero; DANNY INOUYE, JOHN MCCAIN, MAX CLELAND, and BOB KERREY.

I will never join the select group of people who receive military honors or military medals, but I am proud to be part of the select group that knows and works with these heroes, these men who have demonstrated to us that what you do over a lifetime is many times more important than what you do in an instant, and BOB KERREY stands at the first rank of that select group, and I salute him.

The PRESIDING OFFICER. The distinguished Senator from Rhode Island is recognized.

Mr. REED. Mr. President, prior to making comments about the senior Senator from Nebraska, I yield 1 minute to the Senator from California.

Mrs. BOXER. Mr. President, I thank the Senator so much for yielding.

I say to the Senator from North Carolina, Mr. EDWARDS, and the Senator from Rhode Island, Mr. REED, for arranging this, thank you. I think it has been a very high moment in my career in the U.S. Senate. I say to Senator KERREY, I wish you never had been hurt in war, and I just want to thank you for coming back from that trauma, because it has changed the lives of so many people.

To those who do not know BOB KERREY as well as his colleagues know him, I say this is a man of no wasted words. This is not a man of small talk. This is a man with big vision, big ideas, and little time to waste. One, I think, can make the leap that that experience, that brush with death, has made him understand, as many do not understand, that life is fleeting and life goes fast.

Although his rehabilitation must have seemed like an eternity, what he got out of that clearly was the love and support of many people, and it made him realize that he wanted to have a chance to give that kind of support to others.

I consider working with BOB KERREY an honor. It is always interesting. It is always exciting. It is always an experience you can never figure out until it actually happens, because he is not someone who is driven by the ordinary; it is the extraordinary.

I add my words of praise for my friend BOB KERREY. I also add words of praise for the people who rehabilitated you in your tough times. Because of their work, we have you here.

Thank you very much.

Mr. EDWARDS. Mr. President, before the Senator from Rhode Island proceeds, how much time do we have remaining?

The PRESIDING OFFICER (Mr. SANTORUM). Eight minutes 53 seconds.

Mr. EDWARDS. Mr. President, I ask unanimous consent for an additional 10 minutes so that Senators who are present will be allowed to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Thank you, Mr. President.

Mr. President, today is one of those rare moments on the floor of the Senate that we can, with respect and reverence and, indeed, humility, salute a true American hero, Senator BOB KERREY.

Senator KERREY is a man of great courage. That is obvious from his accomplishments, not just as a SEAL in Vietnam, but as a public figure for many, many years. He is also a patriot, someone who loves this country deeply and sincerely and fervently. It is this patriotism which caused him to join the U.S. Navy, although I suspect if you asked him back then, he would have made some type of joke about his joining the Navy and joining the SEALS. But in his heart, it was because of his profound love for his country and his dedication to his future.

Then I suspect also that in the course of his training, he began to realize that he had been given the most profound privilege any American can be given, and that is the opportunity to lead American fighting men. That privilege also implies a sacred trust, a commitment to do all you can to lead your troops with both courage and sound judgment.

He was leading his SEALs that night 30 years ago. He had brought them to a dangerous place, and he was bound and determined, at the risk of his own life, to bring them all back. He fought with great valor. He never lost faith. He always insisted that what he would do would be in the best interests of his men.

For him, the world then was very simple: his mission, his men, and then, and only then, himself. He was and is a hero. BOB KERREY saw war in all its brutality, in all its confusion, in all its senselessness, but he never surrendered his heart and his spirit to that brutality. He never let it harden his heart or cloud his judgment.

He came back from a war committed to continue to serve his Nation. He remains an idealist, and more importantly an idealist without illusions. And again in his acerbic way he would deny all this. But it is true.

He still believes deeply in his country. He still understands that it is necessary to lead. He still understands and keeps faith with those he led and those, sadly, he left behind. He is somebody of whom we are all tremendously proud. And there is something else about BOB KERREY which might explain how he could lead men successfully on virtually impossible missions, because he has that kind of talent to walk into a room when everyone else is depressed, feeling oppressed, feeling without hope, and the combination of his energy and his confidence and that glint in his eye convince people they should follow him, even if the task appears impossible.

Fortunately for us, he has brought these great skills to the U.S. Senate. He continues to serve his country. He continues to take the tough missions—not the milk runs but the hard missions. We all appreciate his courage and his valor.

We all have many personal anecdotes. Let me just share one. I admired BOB KERREY long before I ever got to the U.S. Senate. I met him several times before, but the first time I was really sort of speechless was on Inauguration Day in 1996, where I showed up outside there in the corridor a few feet away from here, ready to meet with my new colleagues in the U.S. Senate, and for the first time in my life, within a step away, I actually saw someone wearing the Medal of Honor. I looked at Senator KERREY as a starstruck teenager would look at a great hero. And, in fact, that was one of the most rewarding and impressive moments of that very impressive day.

But I will recall one other final anecdote. BOB and I were together in Nantucket a few years ago. We got up early one morning to go running. Now, I must confess, I thought I might have an advantage running against Senator KERREY. After all, I am younger. But at about the 3-mile mark, when he turned around and said, ''got to go'' and sped away, I felt a little chagrined. My youth and my other talents could not keep up with this gentleman.

He honors us with his presence. He has honored us with his service. We treasure him. We respect him. And today we are giving him his due.

Senator KERREY, thank you for your service to this Nation.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, who controls time? How much time is remaining?

Mr. EDWARDS. We yield to the Senator from Massachusetts.

Mr. KERRY. I thank the distinguished Senator.

Mr. President, I thank my colleagues, Senators DASCHLE, HAGEL and EDWARDS, for placing this resolution before us today; and I would like to speak just for a few moments about both the event and the person that it commemorates.

This is an important anniversary in the life of one of our colleagues and one of our great friends, my personal friend, the senior Senator from the State of Nebraska. I first came to know BOB KERREY during the very time that we commemorate today. He and I were in the Navy together. We were in Vietnam together.

In fact, though we did not know each other, we knew of each other because it is inevitable that two young lieutenants with the same name, somewhat in the same vicinity, will hear of each other. And irony of ironies, I actually was on a couple of missions in the very area, Nha Trang Bay, just about 2 months or so prior to the event which led to BOB winning the Medal of Honor.

BOB and I also knew of each other afterwards when he came back and he was in the hospital and I had shortly thereafter returned. Our mail crossed, and we have had about 30 years of our mail crossing. On one occasion I think my newsletter from Massachusetts went to Nebraska, and people didn't know what that was all about. And on other occasions we have joked about the fact that he probably received a couple of real ''Dear John'' letters while he was in the hospital and quickly discerned they were not meant for him but for me. And I often had these images of what he might have been reading of my mail. But at any rate, that began sort of a strange odyssey for both of us long before our paths crossed in the U.S. Senate.

I still get letters about the wheat prices in Omaha and he still gets letters about the cod fishing in Massachusetts, and we somehow manage to work these things out. But, Mr. President, it is no light matter to suggest that I have always had an enormous special respect for BOB KERREY. I am honored, as I think all of my colleagues are, to serve with him here in the U.S. Senate.

It was 30 years ago this past Sunday that a 25-year-old lieutenant junior grade BOB KERREY was, as we know, severely injured in Vietnam, sustaining those critical injuries that cost him his right leg. And over the years we have heard others describe, with great eloquence and great poignancy, the fighting on that island in Nha Trang Bay and the courageous way in which BOB fought on after a grenade had exploded at his feet, that he kept fighting even though he was nearly unconscious at the time, kept on the radio directing his men, leading—leading—in the way that we have come to know and expect BOB KERREY to lead, leading those SEALs under his command to suppress the enemy's fire and to try to safely get out of a bad situation.

I think, though, that what we really celebrate here today—and I think for those of us who have served in Vietnam, it is not so much the fighting there as the things that people faced when they returned. In that regard, I think BOB KERREY has also traveled a very special journey. And it is a journey that teaches us a great deal, as it taught him a great deal. It is a journey of personal recovery and of personal discovery.

In many ways, he struggled to put things back into perspective. It is not easy to lose people; it is certainly not easy to lose a piece of yourself, and come back to a country that has deep questions itself about why it was that it put you through that kind of turmoil. And BOB managed to sort all of that out, finding a special sense of humor, a kind of impish reverence, I think we might call it at times, that he shares with all of us to help keep a perspective in our lives.

He also forged a new patriotism out of that experience. Clearly, he went as a patriot because he chose to go. But he came back and struggled even with the definition of ''patriotism'' and of his concern and love for his country. He had to ''refind'' that, if you will, in those difficult times.

I think it is fair to say that he has come back more tested, more capable, and more understanding of what it means to care about the country and to give something to the country and to ask other people to join you in doing that. So he has the ability here to ask all of us in the Senate or our fellow citizens in the country to join with us in acts of giving in ways that others cannot.

I also say that it is not just for that that we celebrate his presence here, but he has been a steady friend and ally in the effort of a number of us here in the U.S. Senate to keep faith with the lingering questions over those who may have been left behind in the course of the war, and also to try to really make peace with Vietnam itself, and to help bring the Senate to a point where we were able to lead the country in normalizing relations and, indeed, putting the war behind us.

It is a great pleasure for me to say how proud I am to serve with BOB KERREY, not just because of the qualities that were celebrated in the Nation's highest award for valor, not just for the qualities that people talk about for his military service, but, more importantly, for his humanity and for his sense of purpose, for his idealism and for his understanding of the real priorities in life. I am delighted to be here today to share in this special celebration of who our colleague is and what he brings us.

Mr. EDWARDS. How much time remains?

The PRESIDING OFFICER. Five minutes 20 seconds.

Mr. EDWARDS. We yield 3 minutes to the Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from North Carolina for this resolution honoring our fellow colleague, Senator BOB KERREY of Nebraska. I want to add my voice to those who have spoken in salute to this individual and the contribution he has made.

The Vietnam war was like nothing else in my life politically—I am sure virtually everyone my age in this Chamber would say the same thing—the way it preoccupied the attention of this country, the way it dominated our political and personal lives, and the debate that went on for so many years. There were some who stayed and some who went and some who protested; there were some who served. Everyone was touched by that war in some way or another.

I was particularly struck by the story of our colleague, Senator BOB KERREY, and the contribution that he made as a member of the U.S. Navy and of course the injury which he sustained in his heroic effort on behalf of our country. Senator JACK REED of Rhode Island, a graduate of West Point, talked about his humbling experience of joining BOB KERREY for a race. He is a jogger—a runner, if you will. I have joined him for a race from time to time. You can tell by my physique I am not a runner. However, it is always a humbling experience as BOB KERREY comes motoring past you with a big smile and you realize that this man just can't be stopped. And I am glad he can't be stopped because he has made not only a great contribution to his State and his country but he continues to do so.

A few years back, Senator BOB KERREY got the notion that he wanted to run for President of the United States. There were some Members of the House of Representatives who stood by him and endorsed his candidacy—the few, the proud, the Members of Congress—who believed that BOB KERREY would have been an excellent President of the United States. I believe that today.

I have come to know this man even better as a Member of the U.S. Senate while serving with him. I know that he has courage. He showed it not only in battle, but he shows it every day on the floor of the Senate. I cannot imagine

what he has endured in his life. I only stand in awe and respect for what he brings to this institution because of that contribution. Very few people in the history of the United States have been awarded the Congressional Medal of Honor. It is my great honor personally to count one of those recipients as a personal friend and colleague.

I thank Senator EDWARDS and I salute my friend, BOB KERREY. I am happy to stand as a cosponsor of this resolution.

Mr. EDWARDS. Thank you, Mr. President.

I will conclude the remarks, and if Senator KERREY has remarks to make, of course we would love to hear them.

I have listened this morning to the remarks from all of these distinguished Senators on this wonderful day honoring this extraordinary man. This is a man who loves others more than he loves himself, a man who loves his country more than he loves himself.

I have to say, Senator KERREY, I think your mother had it right when you were lying on that hospital bed in Philadelphia after your operation that removed part of your leg when she said, ''There's an awful lot left.'' There is an awful lot left, and we Americans are the beneficiaries of what is left.

Thank you very much, Mr. President. I yield to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I want to thank Senator EDWARDS, Senator HAGEL, Senator DASCHLE, Senator BOXER, Senator DURBIN, and all the others who have spoken. I appreciate very much and am very moved by these words and more moved by the friendships in this body.

Thirty years ago is a long time. I am reminded of a slogan at the beginning of any exercise to remember what happened, especially in combat 30 years ago, and I will give you the watered-down version of that slogan. The only difference between a fairy tale and a war story is, the fairy tale always begins, ''Once upon a time,'' and the war story always starts off, ''No kidding, this is true; I was there.''

We don't necessarily have perfect memories when it comes to bringing back that moment and I, for one, have always been very uncomfortable—and BOB BENNETT earlier said he wanted to make me uncomfortable by saying some nice things about me. I have been uncomfortable for almost 30 years to be introduced as a hero, and it made me somewhat uncomfortable in part because I did do something that was simply my duty; I didn't feel that evening that I had done anything necessarily out of the ordinary.

Indeed, JOHN MCCAIN's father upgraded my award from a Navy Cross to a Medal of Honor. Otherwise, this event might not be happening at all. There are many men, Senator INOUYE will tell you, who received nothing, whose actions weren't seen or were seen by somebody who didn't like them, or were seen by somebody who liked them but couldn't write very well, or something else happened to their award along the way. So I am aware that there are many people who have done heroic things that were not so recognized.

As a consequence of being introduced all the time and being given many opportunities to think what it means to be a hero—and I again appreciate very much all this recognition—my heroes are those who sustained an effort. In my case, it was the effort of a single night. Who knows; in the daytime, I may have performed differently. I may have, under different circumstances, done things differently.

The heroes who are impressive to me are those who sustained the efforts, whose bravery, whose courage, is called upon every single day. I think of my mother; I think of my father. I think of millions of men and women who, as mothers and fathers, sustained the bravery and the courage needed to be a good parent. I think of all those volunteers who came out not just to my hospital—I watched Bob Dole on television in 1988 in Russell, KS, break down at the start of his Presidential campaign as he remembered what it was like to come home to Russell, KS, and be welcomed into the arms of people who took up a collection so he could travel to see his father.

The heroes in my life are the people in Lincoln, NE, who welcomed me home and who gave me far more than I thought I had a right to deserve. One of the people in my life who has been very important—I have never met him, but I read his work; indeed, he was killed shortly before I went to Vietnam. Although he was a great opponent of the war, he came back in an airplane, along with other men who had been killed in that war—is a man by the name of Thomas Merton. Merton wrote,

> Human nature has a way of making very specious arguments to suit its own cowardice and its lack of generosity.

I find myself falling victim to that understandable human part of myself. I do sometimes exhibit cowardice. I do sometimes exhibit a lack of generosity. All of us, I suspect, have those moments.

It is the ever-present need to sustain the bravery to do the right thing that impresses me the most. Those whose brave acts are done, knowing there will be no recognition, knowing there will be no moment when they will be recognized and stand before their colleagues, trembling and wondering what to say in response—it is those brave acts that are done anonymously that are most important of all.

I have received a gift in many ways as a consequence not just of the award and considering what heroes are but also as a consequence of my injury. I don't know if Senator INOUYE feels the same way.

I remember a night almost 30 years ago to the day, in 1969, when a nurse came into my room very late at night. It was a difficult night for me. And among other things, she said to me that I was lucky to be alive and that I would get through this, I would survive it, I would get through this valley of pain that I was in at the moment. Well, I remember not believing that. I believed that I was not necessarily lucky to be alive at all at that particular moment of my suffering.

Today I recognize that she was absolutely right, that I was lucky to experience suffering and know that you do not have to feel pain for pain to exist, that it is out there as I speak, as we hear these words. That suffering is universal is a lesson I was given in 1969, and perhaps of all the lessons I was given, it was the most important of all.

I was also given a gift in discovering that the world is much bigger. It is not just us white men from Lincoln, NE, who grew up in a middle class home and had a great deal of abundance as a result of two rather extraordinary and loving people. It is a world composed of many colors, many creeds. It is a world composed of over 6 billion people, not just the 270 million who live in the United States of America.

I have been taught and had the chance to learn that you do not really heal until you have the willingness, courage and bravery to forgive people who you believe have done you wrong. I would not be back in public service, I do not think, were it not for Walter Capps, who invited me to come to Santa Barbara to teach a class on Vietnam, where in studying the history of that war I was able to forgive a man I hated—Richard Nixon. I doubt that former President Nixon felt any relief in that moment when I forgave him, understanding as I did then how easy it is to make mistakes when you are given power. But I was the one who was healed. I was the one who was liberated. I was the one who was able then to live a different life as a consequence of my having the courage in that moment to forgive.

I have discovered, through my own healing, that the most powerful thing that we can give, the most valuable thing we can give another human being costs us nothing. It is merely kindness. It is merely laying a hand on someone and saying to them, as that nurse said to me, that it will be all right; you are not alone here tonight; you are not alone with this suffering that you are feeling.

I also learned through service in the Senate. Oddly enough, at a time when people think that the only reason that we are given to vote a certain way is because there are financial contributions hanging in the balance, I have learned in this Senate that a nation can be heroic. I discovered on the Appropriations Committee, of all things, that that hospital in Philadelphia was not there by accident. It was there because a law passed this Congress—a law that was signed by Richard Nixon—authorizing that hospital to be operated, authorizing those nurses, those doctors

and all the rest of those wonderful people to be there to save my life. A law made that possible. I made no financial contributions in 1969. There wasn't a politician in America who I liked. Yet, this great Nation allowed its Congress to pass a law that gave me a chance to put my life back together.

In 1990 and 1991, as a Senator, I went back to Southeast Asia, with the Bush administration, trying to find a way to bring peace to Cambodia. We succeeded in 1992. But in going back, especially to Vietnam in 1991, and especially in the South, I discovered again something rather remarkable about the people of this great country—that though I still believed the war was a tragic mistake and that we made lots of errors along the way, the people of South Vietnam repeatedly said to me, ''We know you came here to fight and put your life on the line for strangers, and that you were willing to die for us will not be forgotten.''

I sat, along with my colleagues, and listened to Kim Dae-jung of South Korea say the very same thing in even more personal ways. Our Nation can be heroic by recognizing that we might write laws that give all of us a chance at the American dream, and by recognizing that as a great nation there will come a time when we must risk it all, not for the freedom of people that we know but for the freedom of strangers.

I did, as JOHN KERRY said earlier, come back to the United States of America an angry and bitter person. I did not have my patriotism intact. I had gone to the war patriotic because it was a duty, and I stand here today before you honored by your words, moved by your sentiment, and to tell you that I love the United States of America because it not only has given me more than I have given it, but time and time again it has stood for the right thing, not just at home but abroad.

I appreciate just the chance to be able to come to this floor and offer my views on what our laws ought to be. I appreciate very much more than I can say to all of you—Senator EDWARDS, Senator DASCHLE, Senator HAGEL, and the others who have spoken—your sentiment, your words and, most of all, your friendship.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, the courage and bravery and love of country that my friend, BOB KERREY, demonstrated 30 years ago in Vietnam is obviously still alive. For that, I salute you, sir. Thank you.

Mr. KENNEDY. Mr. President, it is an honor to join in this tribute to our friend and colleague, Senator BOB KERREY.

The Nation's highest award for bravery in combat is the Congressional Medal of Honor. Since its creation in 1861, 3,400 Medals of Honor have been awarded to America's bravest Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen for heroic action in battles from the Civil War to Somalia. Our colleague BOB KERREY is one of these brave American heroes.

Senator KERREY was awarded the Medal of Honor for risking his life above and beyond the call of duty during the Vietnam War. The leadership and courage demonstrated by this young, 25-year-old SEAL team leader during intense and ferocious combat are nothing short of extraordinary. These events occurred thirty years ago this month, but the same courage and leadership can be seen everyday in his work in the United States Senate.

I welcome the opportunity to commend Senator BOB KERREY on this auspicious anniversary, and I commend him as well for his outstanding service to the Senate and to the people of Nebraska and the nation. He's a hero for our time and for all times, and I'm proud to serve with him in the Senate.

Mr. FEINGOLD. Mr. President, I come to the floor today to honor and to thank a true American hero. A man who risked his life to defend this nation and continues to serve this nation. I am proud to say that J. ROBERT KERREY is a friend and colleague.

Mr. President, thirty years ago this Sunday, on March 14, 1969, BOB KERREY led a team of Navy SEALs onto an island in the Bay of Nha Trang. In the course of battle, an enemy grenade exploded at his feet. He wound up losing his right leg below the knee, but BOB directed fire into the enemy camp, resulting in its capture. His extraordinary valor cost him part of his leg, but it earned him the respect of every American.

Mr. President, I am proud to join Senators DASCHLE, EDWARDS, and HAGEL on this resolution honoring the only Medal of Honor winner in the current Congress. The Medal of Honor is the highest military award for valor that can be conferred on a member of the American armed forces. It is awarded to a soldier, sailor, airman, or marine who ''. . . in action involving actual conflict with the enemy, distinguish[es] himself conspicuously by gallantry and intrepidity at the risk of his life, above and beyond the call of duty.''

It is that spirit we honor today, which has time and again moved ordinary Americans to rise to every threat to our nation and stand against great odds. It is the spirit that sustained the Revolution at Valley Forge, that carried the day at Gettysburg and Belleau Wood, and that made the difference at the Battle of the Bulge and Iwo Jima. This is the spirit that crashed ashore at Inchon, sustained our resolve at Khe Sanh and swept through the deserts along the Persian Gulf.

And BOB KERREY has showed courage in public life. Whether it's Social Security, Medicare, the budget or protection of the First Amendment, BOB KERREY is not afraid to take the unpopular position. Above all, I admire his willingness to act and speak according to his conscience.

BOB KERREY has earned our utmost gratitude and our lasting admiration.

Mr. COCHRAN. Mr. President, I am very pleased to see the time the Senate is taking this morning to pay tribute to Senator BOB KERREY, and to recognize his contribution during our war in Vietnam, and the recognition that he received as a Medal of Honor winner as a result of his sacrifice and his heroic actions during that conflict. I am certainly not, in any way, sad that we didn't spend the time that we had earlier set aside for the Missile Defense Act. I am very glad the Senate acted as it did to make this very important statement about his service and his contribution during that period in our country's history. He has certainly earned the respect not only of the Senate for his service but of the American people as well. I am glad to join with those who pay tribute to him this morning.

Mr. BYRD. Mr. President, I am honored today to join my colleagues in saluting one of our own, Senator BOB KERREY of Nebraska, for the courage and heroism that he displayed as a U.S. Navy SEAL 30 years ago, and for the courage and determination that he continues to inspire today.

The United States Senate is no stranger to heroes. Through the centuries, this Chamber has embraced the souls of some of the greatest heroes of our nation. It still does. We are privileged to work among heroes every day, individuals like BOB KERREY, STROM THURMOND, DANNY INOUYE, JOHN MCCAIN, and MAX CLELAND.

I hope we never take the courage of these individuals for granted, or lose sight of the great legacy of their predecessors. Certainly, among the history of heroism in the Senate, BOB KERREY's story is one of inspiration. Horribly injured by a grenade, he nevertheless carried on an attack against the Viet Cong and led his men to victory. His bravery won for him the highest honor that the United States government can bestow upon an individual for valor: the Congressional Medal of Honor. But his act of courage also took a great toll. It cost him his leg, challenged his spirit, and threatened to taint his life with bitterness.

BOB KERREY overcame those crises. He turned adversity to success. He recovered from the grievous wounds to his body and soul. He became a successful businessman, went on to become governor of the state of Nebraska, and in 1988 was elected to the United States Senate.

As I said before, Mr. President, the United States Senate is no stranger to heroes. But the Congressional Medal of Honor is something special. Only six Senators in our history have been awarded that honor. All of them, with the exception of BOB KERREY, fought in the Civil War.

As I listen today to the account of BOB KERREY's heroism, hear of the

bravery that he displayed at the youthful age of 25, I am reminded of another account of bravery, this one told by the poet William E. Henley who, as a young man, lost his leg as a result of tuberculosis of the bone. He wrote these words from his hospital bed.

Out of the night that covers me,
Black as the Pit from pole to pole,
I thank whatever gods may be
For my unconquerable soul.

In the fell clutch of circumstance
I have not winced nor cried aloud.
Under the bludgeonings of chance
My head is bloody, but unbowed.

Beyond this place of wrath and tears
Looms but the Horror of the shade,
And yet the menace of the years
Finds, and shall find, me unafraid.

It matters not how strait the gate,
How charged with punishments the scroll,
I am the master of my fate:
I am the captain of my soul.

The year was 1875. The poem was ''Invictus.'' The words belong to William Henley, but the spirit behind them belongs just as surely to Senator BOB KERREY. I salute him.

Mr. LEVIN. Mr. President, I rise to join my colleagues in honoring someone who has already done more to serve his country than most people could accomplish in several lifetimes, BOB KERREY.

Many of my colleagues today have described the circumstances thirty years ago when a twenty-five year old Lieutenant KERREY led an elite Navy Sea, Air, Land (SEAL) team to successfully apprehend a group of North Vietnamese soldiers. I stand in awe as they have recounted the way in which Lt. KERREY continued to direct the team despite his serious injury. For his extraordinary valor, Lt. KERREY was rightfully bestowed the nation's highest award for military service, the Medal of Honor in 1970, by President Richard Nixon.

These actions alone are worthy of reflection by this body thirty years after the event. However, this was only one episode in a lifetime of extraordinary service to his country by Senator BOB KERREY. Luckily for our nation, he did not allow the unfortunate events of that day thirty years ago to stop him from reaching the lofty goals that he had always set for himself. After a trying rehabilitation in Philadelphia, KERREY returned to Nebraska and began his life anew, becoming a successful businessman and eventually winning a race for the state's Governorship. In 1988, he won election to the Senate after mounting a spirited campaign.

During his time in the Senate, BOB KERREY has continued to exhibit exemplary bravery and dedication. He has taken on some of the most important and difficult issues this body faces: Social Security reform, IRS reform and repeated farm crises. Senator KERREY focused on the issue of Social Security early in his career, and his many efforts have greatly enhanced the prospects for reform of this important and far reaching program. Senator KERREY is a champion of American agriculture, working tirelessly to support and protect family farmers facing economic hardship. He has also dedicated himself to improving health care services in the United States.

Mr. President, we honor Senator BOB KERREY today because thirty years ago he exhibited extraordinary heroism under the most difficult of circumstances. Senator KERREY's duty and sacrifice on that day and his important contributions since continue to earn him the respect of the people of Nebraska and the United States. I am delighted to join my Senate colleagues in honoring Senator BOB KERREY.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, the resolution is agreed to and the preamble is agreed to.

The resolution (S. Res. 61) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows

S. RES. 61

Whereas Honorable J. Robert ''Bob'' Kerrey has served the United States with distinction and honor for all of his adult life;

Whereas 30 years ago this past Sunday, on March 14, 1969, Bob Kerrey lead a successful sea-air-land (SEAL) team mission in Vietnam during which he was wounded;

Whereas he was awarded the Medal of Honor for his actions and leadership during that mission;

Whereas according to his Medal of Honor citation, ''Lt. (j.g.) Kerrey's courageous and inspiring leadership, valiant fighting spirit, and tenacious devotion to duty in the face of almost overwhelming opposition sustain and enhance the finest traditions of the U.S. Naval Service'';

Whereas during his 10 years of service in the United States Senate, Bob Kerrey has demonstrated the same qualities of leadership and spirit and has devoted his considerable talents to working on social security, Internal Revenue Service, and entitlement reform, improving health care services, guiding the intelligence community and supporting the agricultural community: Now, therefore, be it

Resolved, That the United States Senate commends the Honorable J. Robert Kerrey for the service that he rendered to the United States, and expresses its appreciation and respect for his commitment to and example of bipartisanship and collegial interaction in the legislative process.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Honorable J. Robert Kerrey.

NATIONAL MISSILE DEFENSE ACT OF 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 257, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 257) to state the policy of the United States regarding the deployment of a missile defense system capable of defending the territory of the United States against limited ballistic missile attack.

The Senate resumed consideration of the bill.

Pending:

Cochran Amendment No. 69, to clarify that the deployment funding is subject to the annual authorization and appropriation process.

AMENDMENT NO. 69

The PRESIDING OFFICER. There will now be 1 hour of debate on the pending Cochran amendment No. 69, to be divided equally between the chairman and ranking member, or their designees.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, yesterday, we began debate of the National Missile Defense Act of 1999. We have reached a point where we will soon be voting on an amendment that seeks to more clearly define the context for this legislation and the purpose we see that it will serve. This legislation is a statement of a new policy for our Government with respect to the need to develop and deploy a national missile defense system as soon as technology permits.

It is very clear from recent developments that we identified yesterday that we are confronted with a very real threat to our national security interests from ballistic missile technology, the proliferation of this technology, and the capacity of other countries to use it to deliver weapons of mass destruction against the territory of the United States.

Americans today are completely vulnerable to a ballistic missile attack. We need to see that that is changed. We need to see that the technology that we have available to us is used to develop and deploy a defense against ballistic missile attack to protect American security interests and American citizens.

During the discussion yesterday, there was some suggestion that administration officials and military officials in our country were opposed to this legislation. I must say that I heard some of these officials testify at hearings, and I disagree with that conclusion. I think there is ample evidence in the record of our Defense Appropriations Subcommittee hearings, and in other statements that officials have made, both civilian and military officials, to the media about their views on this subject, that we can draw a completely different conclusion from the conclusion that was expressed yesterday by some of those who participated in this debate.

Let me give you one example. The other day, on March 3, I was in a meeting of our Defense Appropriations Subcommittee. We were having a hearing reviewing the request for funds for the Department of Defense for the next fiscal year. The Deputy Secretary of Defense, Dr. Hamre, was a witness, and we started a discussion about whether or not the administration interpreted this legislation that is pending now in the Senate to mean that the Department of Defense should disregard measures relating to the operational effectiveness of developmental testing in determining whether the national missile defense system is technologically ready

to provide an effective defense against limited ballistic missile attack.

I asked Dr. Hamre, the Deputy Secretary of Defense, what his interpretation of that legislation was, and if he read the language in a way that suggested we would be deploying an operationally ineffective system or would require the administration to do so. Here is what the Deputy Secretary of Defense said. I am quoting.

No, sir . . . I read the language that it says that you would still expect us to be good program managers. You would still expect us to do testing, disciplined rigorous testing. Not slowing things up just to test for test's sake but to do disciplined testing and know that it really would be effective and that it really would work.

So it is clear from that response to my question that in the mind of the Deputy Secretary of Defense this bill does not require deployment of a missile defense system that is operationally ineffective. On the contrary, he understands clearly, as do the cosponsors of this legislation, that we would put in place a policy and a practice that is common and ordinary in the acquisition process in our Department of Defense.

Finally, to those who suggest that a deployment decision should wait yet another evaluation of the threat, which was one of the four additional criteria outlined yesterday by the distinguished Senator from Michigan, I think a quote attributed to General Lyles, who is the Director of the Ballistic Missile Organization, might be helpful. He was asked again at a January press conference whether another evaluation of the threat would be necessary when the administration gave the go-ahead for production of the national missile defense system. This is what he said. I quote:

The key decision will be on the technological readiness. My statement about looking at the threat, that's something we do for all programs all the time. So yes, we will again look at the threat. But as the Secretary stated, we are affirming today that the threat is real and growing, so that's not an issue. But we will always look at the threat to see has it changed, is it coming from a different source, etc.? That's part of anything we do for any program.

So there is really no question in the minds of the military managers and the civilian leadership at the Department of Defense about the threat. In General Lyles' view, or in the view of Dr. Hamre, and as stated, as Senators know, by the Secretary of Defense, our former colleague, former Senator Cohen, it is routine and a matter of course that there will be a continued evaluation and a monitoring of the threat. But the question as to whether the threat of ballistic missile attack exists now against the United States has been more clearly demonstrated by the actions of North Korea than any other thing anybody can say. The evidence is hard and clear and obvious. There is a capability now in North Korea to launch a missile—multiple stage—with a solid fuel, third stage, with a capacity to reach the territory of the United States.

As Secretary Cohen said when he came to talk to Senators not too long ago, ''We have checked the threat box.'' ''We have checked the threat box.'' The threat is clear. It is present. The threat exists.

That is why the administration's policy of waiting to see whether a threat develops to then decide whether we deploy a system that we have developed is an outdated policy and needs to be replaced with a current policy that matches the facts and the realities of our situation.

That is why this legislation is needed, and that is why this amendment is important, because it restates that the policy will be subject to the annual review of the authorization committees, of the appropriations committees, as every defense acquisition system is under current practices. That is what this pending amendment suggests—that we will see the jurisdictional responsibilities for authorizing a deployment, and funding the deployment will be constrained by budget considerations, by the realities of the threat as it then exists on the regular annual processes that this Congress follows each year.

The administration will have an opportunity to sign those bills, or veto them. So we are not changing the policies, or practices, or rules, or the laws that govern the appropriations and the authorization processes of Congress. That is what this amendment clearly suggests.

I am hopeful that with this further information that is available to the Senate as we proceed to wind up debate on this amendment Senators will ask whatever questions they have, and we will be glad to try to respond to them.

We appreciate having the cosponsorship for this amendment of the distinguished Senator from Hawaii, Senator INOUYE, who is the senior member of the Defense Appropriations Subcommittee, Senator WARNER, who is the chairman of the Armed Services Committee, and Senator LIEBERMAN, who is also active in the review and assistance on this issue.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I commend and congratulate my colleague from Mississippi for his leadership in this area.

Most respectfully and candidly, I must say that I have been a bit surprised and saddened by the attacks made upon this measure. This bill, in my mind, is a wake-up call. It is telling all of us that there is a threat. Anyone who studies North Korea, anyone who looks at the Soviet Union, anyone who has taken time to study the situation in Iraq and Iran, would have to conclude that there is a threat. This measure does not deploy any ballistic missile defense system. It just tells us it is about time we begin looking to the possibility of deploying a system.

As the author of this measure has pointed out very clearly, we would have to go through the regular process of authorization. This Senate and this Congress will have an opportunity to have a full-scale debate, to debate whether we have the funds, whether the threat is real, whether there is a necessity for this system. Then it will have to go through the appropriations process. At each level, the President of the United States will have an opportunity of either concurring or vetoing our efforts. We are not in any way short-circuiting the process that has been laid down by our Founding Fathers. We are following the process. But we are, in essence, telling our Nation: Wake up. There is a threat, and it is about time we look at it seriously.

I am proud to be a cosponsor, not only of the amendment but of the bill itself. It is about time somebody took the leadership to do what Senator COCHRAN has been doing. So I hope my colleagues will reconsider their opposition, look at it very objectively, and I am certain they will concur with us.

For those who have been criticizing that this is going to be a very expensive bill, there is not a single dollar in this measure—not a single dollar. That will have to be determined at a later time if the Congress so decides.

I hope my colleagues on my side will join us when the final vote is taken to support this measure.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I know that under the order we are going to recess at 12:30, and then the order provides for 1 hour of debate on this amendment and then a vote at 2:15.

I am going to recommend—I do not know what the pleasure of the leadership will be—that we go ahead and have that vote and yield back the time on the amendment. That is going to be my recommendation to our leader on this side of the aisle. I don't know that we left anything out in our debate yesterday. We had time from 3 o'clock until 6:30 yesterday evening when we debated this issue and all of the issues that were involved. But I am happy to abide by whatever decision the leadership makes on that. I am just suggesting, for my part I will be happy to yield back our time on the amendment so we can vote at 2:15 when we resume our session after lunch.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I ask unanimous consent that time for this introduction be allocated against the time on this amendment but appear as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota is recognized.

Mr. CONRAD. I thank the Chair.

(The remarks of Mr. CONRAD and Mr. DORGAN pertaining to the introduction of S. 623 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:40 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

NATIONAL MISSILE DEFENSE ACT OF 1999

The Senate continued with the consideration of the bill.

VOTE ON AMENDMENT NO. 69

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. FEINSTEIN) is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—99

Abraham	Edwards	Lincoln
Akaka	Enzi	Lott
Allard	Feingold	Lugar
Ashcroft	Fitzgerald	Mack
Baucus	Frist	McCain
Bayh	Gorton	McConnell
Bennett	Graham	Mikulski
Biden	Gramm	Moynihan
Bingaman	Grams	Murkowski
Bond	Grassley	Murray
Boxer	Gregg	Nickles
Breaux	Hagel	Reed
Brownback	Harkin	Reid
Bryan	Hatch	Robb
Bunning	Helms	Roberts
Burns	Hollings	Rockefeller
Byrd	Hutchinson	Roth
Campbell	Hutchison	Santorum
Chafee	Inhofe	Sarbanes
Cleland	Inouye	Schumer
Cochran	Jeffords	Sessions
Collins	Johnson	Shelby
Conrad	Kennedy	Smith (NH)
Coverdell	Kerrey	Smith (OR)
Craig	Kerry	Snowe
Crapo	Kohl	Specter
Daschle	Kyl	Stevens
DeWine	Landrieu	Thomas
Dodd	Lautenberg	Thompson
Domenici	Leahy	Thurmond
Dorgan	Levin	Torricelli
Durbin	Lieberman	Voinovich
		Warner
		Wellstone
		Wyden

NOT VOTING—1

Feinstein

The amendment (No. 69) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise to add my support to S. 257, The National Missile Defense Act of 1999.

Any questions on whether or not the United States faces a missile threat were answered by the Director of the Central Intelligence Agency, George Tenet, and the Director of the Defense Intelligence Agency, General Hughes, in testimony before the Armed Services Committee. In his opening statement Director Tenet described the threat of a new North Korean missile in the following terms:

> With a third stage like the one demonstrated last August on the Taepo Dong-1, this missile would be able to deliver large payloads to the rest of the U.S.

General Hughes stated:

> The number of Chinese strategic missiles capable of hitting the United States will increase significantly during the next two decades.

This testimony coupled with the findings of the Rumsfeld Commission make an overwhelming case for a National Missile Defense System. We must not be dissuaded by the impact of the National Missile Defense System on the ABM Treaty. The evidence of the missile threat to the United States is too overwhelming.

The bill before us is only a first step toward the deployment of a National Missile Defense System. It provides deployment flexibility to the Department of Defense. It states that it is the policy of the United States to deploy as soon as technologically possible an effective National Missile Defense system. It does not mandate a specific time nor a specific type of a system.

Mr. President, I want to express my appreciation to Senator COCHRAN for introducing this legislation and for his passionate and articulate expression of support for a National Missile Defense System. Our citizens owe him a debt of gratitude for his persistence in pursuit of a missile defense program to protect them and the Nation.

Mr. President, there has been enough discussion on this issue, it is time for the Nation and this Congress to act. I urge the Senate to express its support for the security of our Nation by overwhelmingly approving S. 257, The National Missile Defense Act of 1999.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Mr. President, I rise to express my strong support, along with the distinguished Senator from South Carolina, for the National Missile Defense Act. It is, in my opinion, long overdue and will correct a serious deficiency in our defense policy, one that leaves us utterly defenseless against a threat that is real today and promises to get worse tomorrow.

Last week, Thursday, in the Wall Street Journal, this headline greeted us:

> China Buys . . .
>
> Stolen information about the U.S.'s most advanced miniature W–88 nuclear warhead from Los Alamos helped the Chinese close a generation gap in the development of its nuclear force.

This, of course, is a very abbreviated account of what the New York Times expanded on in great detail and great length. I think it describes for us not only a serious breach in our national security but a quantum leap in the ability of the Chinese Government to not only threaten the security of their neighbors in Asia but ultimately and eventually to threaten the security of American cities; thus, the importance of a National Missile Defense Act.

Mr. President, the Clinton administration is in its sunset, but the effects of its failed, flawed China policy are clearly on the horizon. We are faced today with a very disturbing situation. At the same time that the administration is fostering what it calls ''constructive engagement'' with the People's Republic of China, the Government of China is increasingly posing a threat to the United States and its interests. This policy is nothing if not contradictory and inconsistent. It is no less than a threat to American security.

China has made significant advances in its nuclear weapons program in recent years. By achieving the miniaturization of its bombs, the Chinese military can now attach multiple nuclear warheads to a single missile and hit several targets. China's technical advance means it can now deploy a modern nuclear force and pose an even greater threat to Taiwan, Japan and South Korea, not to mention the United States. The sad fact is that this technical advance was made possible by sensitive W–88 design information stolen from Los Alamos National Laboratory, a facility that we have discovered has very lax security.

The details that I am going to recount in the next few minutes are those that have all been published and have been available to the public in news accounts in recent days.

The W–88 is the smallest and most advanced warhead of the U.S. arsenal. It is typically attached to the Trident II submarine-launched ballistic missile. With smaller warheads, the Chinese military will be able to deploy intercontinental ballistic missiles with multiple warheads.

In the last 2 days, I have attended two briefings with the Secretary of Energy. To me, the accounts that we heard were chilling and alarming. The secret information on the W–88 was

probably stolen in the mid-1980s. This active espionage went undetected until April of 1995, when nuclear weapons experts at Los Alamos studying Chinese underground tests detected similarities to the W–88. The CIA found corroborating information 2 months later. The FBI and the Department of Energy's intelligence group, under Notra Trulock, investigated the matter and were able to narrow its list of suspects to five, including Wen Ho Lee, an employee of the Los Alamos National Laboratory with access to sensitive and classified information. Lee has since been dismissed but not arrested. The other four suspects remain employed.

DOE briefed CIA officials and then Deputy National Security Adviser Sandy Berger on the espionage in early 1996. The FBI subsequently opened a limited investigation in mid-1996 and recommended improved security at DOE labs in April of 1997. But DOE, under Federico Pena, shelved Trulock's counterintelligence program and ignored FBI recommendations, and although some of these accounts in the press have been contested and all of the facts are not yet out, according to press accounts, they ignored FBI recommendations to reinstate background checks. Instead, Chinese officials continued to visit DOE facilities without proper clearances. Meanwhile, Trulock, aware of other possible spy operations at DOE facilities, sought to inform Secretary Pena. It was 4 months before he could get an appointment.

Finally, in July of 1997, DOE briefed National Security Adviser Sandy Berger on the situation and the possibility of current espionage efforts, and Berger kept President Clinton informed.

What was the administration's response? It was back in the 1980s when we believe most of the theft on the W–88 took place. When it became evident in the mid-1990s, what was the administration's response? Unfortunately, the administration swept the matter under the red carpet they were preparing to roll out for President Jiang Zemin of China.

The National Counterintelligence Policy Board made recommendations for strengthening lab security in September of 1997. It was 5 months before President Clinton signed a Presidential decision directive in February 1998. The recommendations occurred in September as to the changes that should be made as to the strengthening of security requirements at our Laboratories. It was 5 months later when President Clinton finally signed a PDD February of 1998 mandating a more vigorous counterintelligence effort at DOE. It took 9 more months to implement those changes that were first recommended back in September of 1997, PDD in February of 1998, and then 9 more months before implementation occurs.

In addition, it is alleged that Acting Energy Secretary Elizabeth Moler ordered Trulock to withhold information from Congress.

That is an allegation, and it is an allegation that is a serious allegation. And it is one that needs to be investigated by this Congress.

She reportedly ordered him not to brief the House Intelligence Committee on the espionage matter, and not to deliver written testimony to the House National Security Committee. It was only when Trulock testified before Congressman COX' committee investigating this whole matter that Trulock was then able to fully inform Congress. If what Trulock claims is true—that he was hindered, that obstacles were placed before him and he was ordered not to testify, not to provide that vital information to Congress—then I think we have not just a security breach that resulted in stolen secrets, but it involves, in effect, a refusal to give vital information to Congress so that the administration's China policy could move forward without criticism—significant criticism—from Congress.

Only in the last several weeks was a lie detector test administered to Wen Ho Lee, the main suspect in this espionage. He has now been dismissed. Only now will periodic polygraph examinations be required of certain employees.

The administration's response to this situation seems puzzling at best. But then—if you put it in context of what is going on with our relations with China—it at least raises troubling questions. The administration was fostering its policy of constructive engagement, engaging China by in part selling nuclear technology, supercomputers, and satellites to China.

To bring up this vital issue of national security spying, espionage stealing of secrets—to have brought that up would have disturbed the flow of high-tech trade to China. And so it simply never was brought up.

At the same time that the Clinton administration knew about Chinese efforts to steal nuclear weapons technology, it certified that China was no longer assisting other countries in their nuclear weapons program.

It is amazing that when the administration knew that espionage was occurring at our Laboratories, that secrets were being stolen, it went ahead and certified that China was no longer assisting other countries in their nuclear weapons program.

That certification lifted a 12-year ban on the sale of American nuclear technology to China.

Why would we want to assist China in nuclear technology at the very time we are discovering their intensive efforts to infiltrate our Laboratories?

At the same time that the Clinton administration knew about Chinese efforts to steal militarily sensitive technology, it loosened export control laws on supercomputers and satellites.

Once again, it becomes not just a spy case. It becomes a situation in which the administration was pursuing a policy that to have disclosed what was happening in the security realm would have interfered with the pursuit of that policy goal by the administration. So it loosened export control laws on supercomputers and satellites at the very time the investigation was going on at Los Alamos.

At the same time that the Clinton administration knew about Chinese efforts to steal nuclear weapons technology, President Clinton was seeking reelection, receiving donations from Chinese sources, and allowing White House access to military intelligence officials.

At the same time that the Clinton administration knew about Chinese efforts to steal nuclear weapons technology, administration officials were preparing for a visit by President Jiang Zemin.

At the same time that Congress was investigating illegal campaign contributions with Chinese sources, the Clinton administration withheld vital information regarding security breaches at our National Laboratories from Congress and the American people.

How many briefs there were is yet in dispute. Who was providing the information and who was not, if anyone, is yet in dispute.

But it is troubling that there is evidence of an effort on the part of administration officials to preclude those who should have known, those who had oversight responsibilities, those who had appropriations responsibilities, from knowing the full extent of the security breaches at our National Laboratories.

President Clinton's China policy, I believe, has been a failure. And I believe that these most recent revelations fit into the broader context of the failure of this administration's policy toward the People's Republic of China.

''Constructive engagement'' has proven constructive, but it has been constructive only for the Chinese military.

The implications of this policy extend beyond the United States. In East Asia, our allies, including Japan, South Korea and Taiwan will face a new and greater threat because of China's nuclear capabilities. It is ironic that the Chinese Government warns us not to develop a theater missile defense system while it aims more missiles at Taiwan and develops multiple nuclear warheads. The Chinese nuclear advancements will certainly inflame anxieties in India, which may lead to further proliferation in both India and Pakistan.

So President Clinton has left us with a ''strategic partner,'' as he terms it, pointing 13 of its 19 long-range missiles at us—a strategic partner building new long-range missiles, the DF–31 and DF–41; a strategic partner well on its way to developing multiple warhead missiles. These are the bitter fruits of a policy borne out of warped motives.

There were some in the administration who would like to dismiss this espionage case as a failure of the Reagan administration. I agree. There should have been greater security measures taken at that time. But this administration cannot blame its failure to uphold American security interests on past administrations. National security is a bipartisan issue. But it cannot blame its failure to adequately notify Congress on past administrations. This administration is responsible for a comprehensive policy failure in regard to China. The American people will be suffering the consequences long after the President has left office.

Mr. President, it is a fact that, while there are many facts yet in dispute, and while there are many questions that have gone unanswered, and it is my sincere desire that the appropriate committees of the U.S. Senate will begin immediate hearings and fulfillment of oversight responsibilities—while there are facts in dispute, and while there are questions to be answered, there are some facts that are indisputable.

It is an indisputable fact that the Chinese Government stole nuclear secrets allowing it to build smaller and more efficient warheads.

We can argue and we can debate as to whether it was a 2-year loss of technology or a decade, whether it was a generation, or whether it was less than that, but it is not disputable that China stole nuclear secrets allowing it to build a smaller and more efficient nuclear capability.

It is indisputable that the Chinese Government continues to aggressively seek to obtain technology from U.S. companies allowing it to better target their ICBMs. That is indisputable. Whether legitimate means, whether legal means, or whether serreptitious means, it is indisputable that China today continues on an aggressive pattern of seeking to obtain technology from the U.S. companies.

It is an indisputable fact that the Chinese Government is engaging in an expensive modernization of their weapons system.

While there may be much debate, that is a fact. That is beyond dispute. China today is expending vast amounts of its budget in order to modernize their weapons systems.

Mr. President, while there is much in dispute, it is a fact beyond dispute that the Chinese Government continues to be a major nuclear proliferator in the world, giving North Korea the missile capability even to hit American cities.

It is a fact beyond dispute that the Chinese Government continues to menace our allies in Asia with military threats. And it is a fact that the Chinese Government has again brutally clamped down on democracy advocates within China and seeks to extinguish free expression, whether religious or political.

In the face of all these facts, the administration is still determined to give an irresponsible actor in the world arena a major role by offering to China World Trade Organization accession. It is my sincere desire, it is my sincere hope, that the administration will not seek to bring China into the WTO, will not bend the rules, will not allow China to enter as a developing nation as they desire, and that we will, in dealing with the largest, most populous nation on the globe, take our rightful place and we will regain our voice where, when it comes to the World Trade Organization, we will require that Congress approve China's membership in the WTO before they are allowed to enter.

These facts, all incontrovertible and indisputable, reveal what I think is already obvious. The administration must reexamine its China policy and restore American security as its main priority. It must take responsibility for defending the American people, and it must commit to a national missile defense system. I applaud the efforts of the distinguished Senator from Mississippi, Mr. COCHRAN, for his leadership and his perseverance and his determination to bring this bill forward and to ensure its enactment.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I listened with interest to the Senator from Arkansas. I think there are far more questions than answers on the issues he raised. I think the issues of national security dealing with China are serious. The alleged spying, as I understand it, occurred in the mid-1980s; the transfer of missile technology and agreements for that transfer occurred at the beginning of the 1980s. The Senator raises very important security questions and we need answers to those questions. I am sure in the coming days we will learn more about many of these issues as we discuss them with the appropriate people who have been a part of this matter for, now, a decade or a decade and a half.

But I came to the floor and have waited here to speak about the national missile defense proposal. That is what is on the floor at the moment, national missile defense. Mr. President, 24 years ago our country built an antiballistic missile system in my home State. It is the only ABM, or antiballistic missile, system anywhere in the free world. That ABM—or what we would now call national missile defense—system, that ABM program, cost over $20 billion in today's dollars.

On October 1, 1975, the antiballistic missile system was declared operational. On October 2, 1 day later, Congress voted to mothball it. We spent a great deal of money. I encourage those who are interested in seeing what that money purchased to get on an airplane and fly over that sparsely populated northeastern portion of North Dakota. You will see a concrete monument to the ABM system. It was abandoned a day after it was declared operational.

Did that system make us safer? Did taking the taxpayers' dollars and building that ABM system improve national security in this country? The judgment was it was not worth the money after all. Yet here we are, nearly a quarter of a century later, debating a bill that would require the deployment of a national missile defense system, another ballistic missile defense system, as soon as technologically feasible.

It was technologically feasible 24 years ago. It was a different technology. The technology then was, if you see a Russian missile—or a Soviet missile then—coming in to attack this country, you send up some antiballistic missile defenses, and they have nuclear warheads, and you blow off a nuclear warhead somewhere up there in the heavens and it obliterates the incoming missiles. That was the technology then. It was technologically possible then.

Now the new technology is, we are not going to send a nuclear missile up to wipe out some incoming nuclear missile—or a missile with a nuclear warhead, I should say. What we will do is, we will hit a speeding bullet with another speeding bullet. If someone puts a missile up with a nuclear warhead, we send a missile up with our charge and we hit it—a bullet hitting a bullet. Of course, all the tests now demonstrate that is very hard to do. There have been far more test failures than successes in this technology. But here we are saying, let us deploy a National Missile Defense System as soon as technologically feasible.

It is technologically feasible for my 11-year-old son to drive my car. I wouldn't suggest that someone who meets him on the road would consider it very safe or appropriate for Brendon to be driving my automobile, but it is technologically feasible.

So what does that mean, technologically feasible? What does it mean with respect to missile defense? Will it make us safer? Here is what we do know. A national missile defense system cannot protect us from a low-flying cruise missile launched by a Third World despot who can much more easily access a cruise missile than an intercontinental ballistic missile and put it on a barge somewhere off a coast and lob in a nuclear-tipped cruise missile. Will we, when we deploy this system, defend against that? No, not at all. That is not what this system is for. It is to defend against an ICBM. And not just any ICBM—not a Russian ICBM, for example, because any kind of robust launch of more than a handful of missiles cannot be defended with this new technology, the kind of technological catcher's mitt that we send up to catch an incoming missile.

It is only a missile from a rogue nation. If a rogue nation acquires an intercontinental ballistic missile—unlikely perhaps, but let's assume a rogue nation acquires an intercontinental ballistic missile and uses that

with a nuclear warhead attached to its top to threaten this country. What are the likely threats? Among the threats, the least likely would be a rogue nation using an intercontinental ballistic missile. More likely would be their access to a cruise missile, to purchase a cruise missile someplace. Of course this system will not defend against that. More likely than that is, perhaps, a rental truck filled with a nuclear explosive or perhaps a suitcase nuclear bomb planted in the trunk of an old Yugo car parked at a New York dock—a far more likely threat by a rogue nation than access to an intercontinental ballistic missile. Will this protect us against those threats? No.

National missile defense shields us against one threat only—the accidental launch of a ballistic missile from an existing nuclear power or the future possibility of an attack by a rogue nation. But it is not just any accidental launch. It would be an accidental launch of just one or two or a few missiles, because any launch beyond that, of course, would be a launch that would prevail over a limited national missile defense system.

If we deploy a national missile defense system before it is ready—not just technologically possible, but tested and ready —then what are we getting for our money? What does the taxpayer get for the requirement to deploy a new weapons program, albeit defensive, before it is ready to be deployed? Detecting, tracking, discriminating, and hitting a trashcan-sized target traveling 20 times the speed of sound, landing in 20 or 30 minutes anywhere in the world after it is launched—intercepting that with another bullet that we send up into the skies? To put it mildly, that is problematic. Our efforts to date, under highly controlled test environments, come nowhere close to meeting the requirements a ballistic missile system would need to satisfy and justify deployment.

If we deploy without regard to all of the other issues and all of the other considerations, all of the efforts we have made to reduce weapons of mass destruction that pose such a danger to the world, will we make this a safer world? Or a world that is more dangerous? If we deploy this system before we have renegotiated with Russia the Anti-Ballistic Missile Treaty, we are sure to jeopardize the enormous gains we have already made in arms reduction efforts.

I would like to show a picture just for a moment. I also ask unanimous consent to show a piece of an airplane on the floor of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, this is a piece of a backfire bomber. I suppose that some years ago, you would have thought the only way a Member of the U.S. Senate could hold a piece of a Soviet bomber or a Russian bomber in his hands would be if it were shot down somewhere in hostile action.

This is a wing strut from a bomber that used to carry nuclear weapons that threatened this country. This bomber, as you can see, no longer flies. This wing strut is a result of a cut from the wing of that bomber that rendered that bomber useless. How did that happen? How does it happen that we are able to cut the wings off Russian bombers, and we are able to destroy Russian missile silos?

Last year I held in my hand on the floor a metal flange from a missile silo in the Ukraine that used to sit on the prairies there in the Ukraine with a nuclear warhead aimed at the United States of America, and that piece of metal now doesn't come from a missile silo. I held it in my hand. The missile silo is gone. The missile is gone. The warhead is gone. Where a missile once sat aimed at the United States, there now is planted a field of sunflowers, sunflowers rather than missiles.

How did it happen that in the Ukraine an intercontinental ballistic missile site was dug up, the missile gone, the warhead gone, and there are now sunflowers? How does it happen that a Soviet bomber has its wings sawed off? I tell you how it happens —Nunn-Lugar. Senators DICK LUGAR and Sam Nunn offered a program here in the U.S. Senate trailing the arms control agreements we have had with the old Soviet Union and now Russia. It says the United States will help pay for the destruction of your weapons.

Doesn't it make good sense for us to destroy Russian bombers, not with our bullets but with saws? Doesn't it make good sense for us to destroy Russian missiles in their silo through the use of American taxpayer funds, not with people who have to go in the field and fight and risk their lives, but through a treaty of arms control in which we help pay the cost of the destruction of nuclear weapons and delivery systems controlled by Russia and the old Soviet Union?

Since the dissolution of the Soviet Union, Russia, the Ukraine and others have destroyed over 400 intercontinental ballistic missiles, 400.

In the last several weeks, I saw a nuclear weapon. I was in a weapons storage facility on a tour, and I won't describe it in great detail, probably because I couldn't. A nuclear weapon is not very big. A nuclear bomb is not large at all. You can have a nuclear bomb dozens of times the power of the bomb that was dropped on Hiroshima. It is no bigger than that desk.

The Soviet Union, Russia and the Ukraine, now named, have destroyed over 400 intercontinental ballistic missiles with MIRV warheads, over 400 of them gone. Our arms control agreement has rendered them gone. They are gone. We helped pay for it. We cut the wings off the planes. We pulled the missiles out of the ground. We saw those missiles destroyed. We have cut the wings off 37 Soviet bombers. Eighty submarine missile launch tubes are now gone; 95 nuclear warhead test tunnels are now sealed. That is major progress. If the Russians ratify START II, which I think they are likely to do, we will see further dramatic reductions in the number of bombers and missiles and warheads on both sides.

That will happen not because we are fighting but because we are cooperating, not because there are tensions but because there is an arms control regime we are following and because we are helping them destroy their weapons at the same time we are reducing our weapons. We want to deactivate over 5,000 warheads, destroy 200 missile silos, 40,000 chemical weapons. Look at the success. Eliminate 500 metric tons of highly enriched uranium. Would we or should we do anything to jeopardize this progress? What might jeopardize it?

We have a treaty with the Russians, and the treaty is an ABM Treaty. The proposal by some is to say ignore the treaty; it doesn't matter. These treaties are not very important. These treaties START I, START II, ABM, hopefully a START III, these treaties allow us to make this progress and reduce the nuclear threat and reduce the threat of nuclear war.

Thirty-two thousand nuclear weapons remain in the United States and Russian arsenals today. Some of those are theater weapons; thousands and thousands of nuclear weapons, of course. That is half the number of a decade ago, but does that give us great confidence? No. We need to reduce them much, much further.

How can we do that? I know how we won't do that. All of that progress in the reduction of nuclear weapons could come to an abrupt halt if we deploy a national missile defense system without any regard to the concerns raised about whether this legislation would violate the ABM Treaty that we have made with the Russians in order to slow the nuclear arms race. Instead of working cooperatively with other nuclear powers, if we act unilaterally we surely risk a return to a costly and dangerous arms race with Russia and China as well.

A former colleague, Dale Bumpers, said something interesting about this. He said:

> We can ignore Russia's concerns now, but in the years to come, she will slowly recover and resume a great power role in the world. By rash actions such as abrogation of the ABM Treaty, we are far more likely to rekindle the cold war with a hostile nation than to produce a constructive relationship with a cooperative Russia.

Senator Bumpers, then, was wisely cautioning us that the calculations that go into our strategic defense decisions today will have enormous consequences and costly consequences for the world that we pass on to our children. Each day we move closer to eliminating the nuclear threat left over from the cold war, thanks to arms reductions mandated in START I and START II and thanks to the Nunn-Lugar threat reduction that has been so successful.

As I indicated, that investment has been a critically important investment in reducing the nuclear threat. I show my colleagues a chart that talks about the imbalance between money that some propose we spend on a national missile defense program versus money we spend on arms reduction. This chart shows what we are prepared to spend on a national missile defense system, a limited one, one that won't protect us against much of the threat, but compare it even at that to what is planned to be spent on arms reduction. I hope this is not a picture of our priorities. I wish it were reversed.

This legislation that we are considering says just do it, in the popular jargon of today. Deploy the system as soon as the military can get it up there. Cost doesn't matter. Arms control doesn't matter. Nothing much matters. Deploy it as soon as is possible. We are nervous.

Mr. President, let me say that I support the strongest possible defense against any threat to our country, but if you rationally think through the range of threats to our country, you must start with the understanding that the largest possible threat to our country comes from thousands of nuclear warheads that now exist, thousands of nuclear warheads already in stockpiles with delivery vehicles, bombers and ICBMs and others. We must continue the work of reducing them, and we have done that very successfully. Anything we do here to jeopardize that would be a profound mistake.

In addition to that, what are the other threats? A rogue nation getting an ICBM? Yes, that is a small threat way over here on the edge. How about a rogue nation getting a rental truck, as I said, with a nuclear device planted in the back somewhere? Probably more likely. Or a deadly vile of the most deadly biological agent? More likely. A suitcase nuclear bomb? More likely.

Should we worry about all of these? Should we prepare for all of these? Of course. We would be foolhardy as a nation to underestimate the threat of terrorism and underestimate the intentions of rogue nations. We would be fools to do that. But it would be shortsighted for us to decide, because we are concerned about all of that, we are willing to push all of our chips to the middle of the table and say we will risk the very substantial achievements we have made in arms control reductions.

The elimination of Russian bombers by cutting off their wings, the destruction of Russian missiles, the dismantling of Russian warheads, making Ukraine nuclear free—did anyone think they would hear that? We risk all of that if we move in a manner in the Senate that says, ''You don't matter; all that matters is our short-term nervousness about one small slice of one of the threats that exist.'' That is not a balanced approach.

Mr. President, I conclude by saying I think one of the more talented Senators in this country is the Senator from Mississippi, Senator COCHRAN. I enjoy working with him. I think he is bright and productive, and he is one of the people that makes me proud to be a Senator. The same is true of my colleague from Michigan, Senator LEVIN. The fact is, they have pretty big disagreements about some of these issues, but this is a very big issue.

This idea about how this country responds to nuclear threats and what kind of nuclear threat should persuade us to respond in certain ways will have profound implications for all of us and for our children and our grandchildren.

I have a young son age 11 and a daughter age 9 who are in school today, at least I hope they are in school today. They are the most wonderful children any father would ever hope to have. I hope when my service is done in the U.S. Senate, whatever I might contribute to public policy, that they might say I helped in a way to reduce the nuclear threat, I helped in a significant way to have this world move away from the kind of nuclear threat that has existed now for many, many decades.

It is hard for people to believe because it does not get much press and it is not very sexy, but every day we are spending American taxpayer dollars to destroy missiles that used to be aimed at American cities. What a remarkable thing to have happen. What a remarkable success.

I think it was Mark Twain who said once that bad news travels halfway around the world before good news gets its shoes on. That certainly has to be true with respect to this nuclear issue, the nuclear threat. How much attention does this get, the day-to-day success we have in reducing nuclear warheads and delivery vehicles? Let us not jeopardize that. Let us move forward together in a thoughtful way, understanding, yes, we should prepare for some kind of missile defense. Let's do it thoughtfully, let's do it when it is technologically possible, but let's make sure we do it when it is cost effective, technologically possible, will not interrupt and will not pose danger to our arms control agreements. Let us condition it on all of those issues together and, as a country, then do the right thing.

Again, I thank the Senator from Michigan, Senator LEVIN, for allowing me to have some time in this debate. I hope in the coming hours we will be able to address this just a bit further.

Let me conclude—I know the Senator from Tennessee is waiting—let me conclude with one final statement. The majority leader said this morning that we should be clear in our intentions toward the ABM Treaty. I do not know what that means. I encourage him to tell me what that means. I agree with it, we should be clear, and I hope we are clear with respect to our intentions about the ABM Treaty to say that treaty matters, that treaty means something, and to the extent we seek changes in that treaty, we will, with the Russians, negotiate those changes, but we will not take an attitude that this treaty does not matter to this country. Let us hope that is what the majority leader meant when he said, let's be clear about our intentions toward the ABM Treaty. I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. I thank the chair.

My friend from North Dakota points out that there are, indeed, other threats to this Nation besides those that pose a threat that this bill is designed to prevent. There are, indeed, other threats. He points out that our missile defense system may not stop all of the threats that are out there, and he, of course, is correct with regard to that, also.

I do not believe that is sufficient grounds for opposing a missile defense system for this country. We have become aware, much more than we would like, recently of the new threats, the new world that we live in, the new threats that are posed not only from old sources but from many, many new sources, some of which we may not be fully aware of and what their capabilities might be, which apparently have missed the estimates of our own intelligence community, in many instances.

I agree with my friend concerning the Nunn-Lugar program. I have also visited Russia and have seen that program in operation and the many good things that it is doing and its related programs. We have a nuclear cities program over there where we are trying to turn some of their nuclear cities and help them turn their enterprises in other directions.

We have assisted with regard to their scientists hopefully so that they will not leave the country and go to places and spread technology in places that would be detrimental to us.

We have, indeed, destroyed some of the nuclear stockpile, but I think it is important to note that we are essentially still dipping in the ocean as far as that is concerned. We are just getting started in that regard. They have many, many more tons of nuclear materials and many, many missiles that we have not touched yet, even if we are aware of their existence.

We should not in any case believe that we have begun to seriously eat into the Soviet Union's nuclear capabilities. We are trying to do that. Those programs must be maintained. It is going to take a period of time before we can make any progress in that regard.

We have spent hundreds of millions of dollars in Russia in order to maintain these programs. Our taxpayers have made a decision that it is worthwhile that we go over there and try to make friends with the Russians and try to help them make this transition. We have put our cash on the barrel head to the tune of hundreds of millions of dollars. That money is sorely needed in Russia right now, and hopefully it will be put to good use.

At the same time that we are doing this, our intelligence community and our Government still have serious concerns about proliferation activities of the Russians. When you consider the threats around the world and the so-called rogue nations and the outlaw nations and the dangers they present, oftentimes if you trace back to where they are getting their capabilities, you will go back to Russia, you will go back to China. It is a serious, serious problem.

If what we are saying today is that if the United States protects itself with a missile defense program, not only is Russia going to continue to proliferate but it is going to refuse the hundreds of millions of dollars that we propose to put in there, then so be it. I think we still have to go forward in the best interests of our country.

Make no mistake; we do not want to abrogate understandings lightly. Everyone knows the circumstances have totally changed. Our deal with the U.S.S.R. no longer exists. We have shown our friendship. The Soviet Union for years and years said, ''We have to counter the United States of America, because they have all these hostile intentions and they have these aggressive tendencies.''

We have shown that not to be the case. We have reached out a hand of friendship, but we cannot, in turn, be threatened with closing us out, especially when they are still too often spreading nuclear technology and capability and missile capability around the world at a time when we are considering whether or not we want to have a missile defense system to protect ourselves against whomever might be hostile to us in the future.

Clearly, that is not Russia today. But it is a dangerous world out there in many, many more respects than when the old Soviet Union posed its threat.

Many of my colleagues have already recited the growing missile and weapons of mass destruction threats which America faces from many hostile and potentially hostile countries, and I will not take the time to recite them again. Most of these threats in fact were well known when we voted on missile defense last September. What is new since the last time we debated missile defense is the news that China has obtained the design for our most modern nuclear weapon, the W–88 warhead. This technology permits the development of massively destructive nuclear warheads at a fraction of the size previously possible.

Acquiring this technology will allow the Chinese to fit multiple warheads into a single missile for the first time and to deploy more nuclear weapons on submarines. Of course, this revelation must be coupled with the knowledge that because of lax export controls, the Chinese have also been able to obtain American technology to improve the guidance of their missiles and to develop the capability to deliver multiple warheads from one missile.

As we saw in the hearings of the Governmental Affairs Committee in our International Security Subcommittee, chaired by Senator COCHRAN, last year, cooperation with American satellite manufacturers has actually helped Beijing learn how to build better missiles and deploy multiple payloads from a single rocket. This enhances China's capability to develop this latter technology for use on ballistic missiles. As a result, they will be able to launch multiple warheads from a single missile, a capability called MIRV'ing.

So now the Chinese have more reliable missiles, each of which may soon become capable of delivering multiple warheads with one shot. And now they have stolen the final ingredient to make this work—our own most sophisticated miniature warhead design.

But that is not all the U.S. technology they have. American supercomputers may allow China to maintain the W–88 without nuclear testing. The administration has loosened export restrictions on this technology. The Chinese are also reported to have stolen U.S. laser technology and, in conjunction with advanced computers, may have helped them simulate nuclear explosions in the laboratory.

Now the United States has a huge program underway to develop the means to ensure the viability of its weapons without conducting test explosions. Were the Chinese to develop similar capabilities, then they could maintain this W–88 and other modern warheads without testing. This would enable Beijing to conduct nuclear weapons work without telltale underground explosions and help the Chinese missile force threaten the United States for decades to come.

So what does this actually mean in terms of U.S. national security? Until now, China's nuclear arsenal has been quite small, built around a comparatively tiny force of land-based and mostly liquid-fueled intercontinental ballistic missiles. However, thanks to the acquisition, both legal and illegal, of new technologies, Beijing now stands on the verge of both a qualitative and a quantitative breakthrough.

There are at least four new missile programs currently underway designed to provide the People's Liberation Army with dramatically improved capabilities by the first years of the next century. Moreover, the Chinese now have a class of submarine capable of launching ballistic missiles. These developments are highly relevant to our debates over U.S. missile defense.

Moreover, Mr. President, these developments threaten not only the United States but pose a more imminent threat to our allies in Asia. They are at least as worried as we are about missile and weapons of mass destruction advances by China and North Korea. After all, countries such as Japan, South Korea, and Taiwan are much more likely targets for these weapons than we are—at least for now.

If ongoing Chinese missile deployments and nuclear proliferation are not addressed, and if we do not provide access to effective missile defenses to U.S. allies in Asia, then such vulnerable countries may have little choice but to try to develop their own means of nuclear defense or deterrence. This would intensify rather than diminish the proliferation problem in Asia and is yet another reason it is imperative that we develop the interrelated technologies and control systems for theater-level and national-level missile defenses.

We should not forget that China has a well established propensity to export its nuclear weapons and ballistic missile technology. It has been reported in the press, for example, that China provided a fully tested nuclear weapons design and highly enriched uranium to Pakistan. China has also provided ballistic missile technology to Pakistan and other countries. In 1988, China provided a turnkey medium-range missile system to Saudi Arabia. That is an entire weapons system ready to use right out of the box. China has also a record of providing nuclear, chemical, and biological missile technology to Iran.

Furthermore, the Rumsfeld Commission reported that a number of countries hostile to the United States, including Iran, Libya, Iraq, and North Korea, are capable of manufacturing weapons of mass destruction and ballistic missiles and that previous United States intelligence assessments had greatly underestimated the danger that such developments pose to the United States. Should China decide to export the W–88 or a complete weapon to such nations, as has been done with so many other dangerous technologies, the consequences for regional and global stability would be grave indeed.

All this, Mr. President, makes it more important than ever that the National Missile Defense Act of 1999 be passed. Faced with new and growing nuclear and ballistic missile threats, in part through our own carelessness, America needs the protection that such a missile defense system would offer. And Americans need the confidence of knowing that a system will be deployed rather than waiting on some future administrative decision on whether to deploy.

It is time for Congress to act. The technology to develop and deliver nuclear and other weapons of mass destruction is widely available and is spreading rapidly. If we do not prepare today, when the day arrives that America is paralyzed by our own vulnerability to ballistic missile attack or when an attack actually occurs, we will be reduced to telling the American people and history merely that we had hoped this would not happen.

I urge my colleagues to support S. 257, the National Missile Defense Act of 1999. I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, proponents of S. 257, the bill we are debating now, suggest that this bill is vital to our country's defense. The very distinguished Senator from Tennessee just got up and made his case, and as an illustration he pointed to the technology that the Chinese Government, apparently through espionage, has acquired.

I want to make it clear for the record, I am not confirming anything at this point. But assume that what was said is accurate—and I am not disputing it either. One of the two things the Senator pointed out, as things we should be worried about, is that they may have acquired the capability of MIRVing missiles. For the public, that means they can put more than one nuclear bomb on the nose of a missile, an intercontinental ballistic missile. And they may have gained the capacity to independently target those warheads.

Put another way, we know what the Russians can do. The Russians have SS–18s and other intercontinental missiles, each with any of 3, 7, 10—depending on the missile—nuclear bombs with a combined capacity that exceeds Hiroshima and Nagasaki. They could launch a missile, and within 30 minutes they could have one of those warheads, one of those nuclear weapons, landing in Wilmington, DE, a small town, in relative terms, in my State, taking out all of the Delaware Valley and its 10 million people, and the same missile could send one warhead to Washington, DC, one to Roanoke, VA, et cetera—all with one missile. That is a very, very, very awesome capacity. We are worried that the Chinese may have acquired some of that technology.

It is also suggested that the Chinese may have acquired the capacity to target with more accuracy. An accurate missile can breach the overpressure limit of certain missile silos—the pounds per square inch they could sustain from a blast and still be able to launch—so it became important during the time of the arms buildup between the Soviet Union and the United States what the hard kill capacity was. That is, could you fire a missile that would not only kill all the people in all the Delaware Valley, but, assuming there were silos that had Minuteman rockets in those silos with nuclear weapons, could also knock out that missile itself? That is what they called the hard kill. Accuracy became a big deal because you could take out the other guy's missiles, and not just his cities.

We had the capacity to drop these missiles 12,000 or 13,000 miles away within 30 minutes on pinpointed areas the size of a soccer field in the Soviet Union then, in Russia now. We are worried the Chinese may have acquired that capacity. I think my friend from Tennessee is absolutely correct to be worried about that; so am I.

What are we doing here today? We are debating what I believe to be a political document, not a substantive piece of legislation that adds anything to the concept of what our strategic doctrine should be. We are saying that Taepo Dong missiles in the next 1 to 5 years—the Koreans may be able to get up to five of them—may be able to hit the United States, assuming the regime in North Korea lasts that long or outlives the research that would be required to get this done. We are talking about building a thin nuclear defense system to counter that immediate threat and future threats from Iran, Iraq, and other rogue states, and we are talking about it in almost total disregard of what impact it will have upon the ABM Treaty.

People say, ''What is the ABM Treaty?'' The ABM Treaty, as Senator DORGAN discussed, is the basis upon which we have gone from somewhere on the order of 25,000 to 30,000 nuclear warheads—and the capacity that my friend from Tennessee is worried about the Chinese acquiring—down to 12,000 total, roughly, or 13,000 maybe, roughly evenly divided between the United States and Russia.

Guess what? George Bush came along and said the single most destabilizing thing of all—in what I call ''nuclear theology''—are these ''MIRVed'' missiles, those missiles with up to 10 nuclear bombs on their tip, able to be targeted independently, once they separate, able to go in ten different directions with significant accuracy.

Why are they destabilizing? They are destabilizing because of the nuclear scenarios about who strikes first and whether you can strike back. Anybody who faces an enemy that has this capacity has to target those missiles, because they are the single most dangerous thing out there. That means that in a crisis, if a missile were accidentally launched, or we thought one was launched, what we would have to do is go and strike those missiles first.

What would the Russians now have to do? They would have to launch on warning. Knowing that their MIRVed missiles were logical targets, they would adopt the use-it-or-lose-it philosophy. It is the only rational decision a nuclear planner could make.

So George Bush figured out these are incredibly destabilizing weapons. They are vulnerable to a first attack by sophisticated missiles and they are awesome—awesome, as the kids say—in their destructive capacity. So what do you do? As long as they are around, it means they must be on a hair trigger. No country who possesses them can wait for them to be struck before they fire them. Everybody can understand that. The gallery is nodding; they all get it. They figured it out. When it is explained in simple terms, everybody understands it. That is called crisis instability.

What did we do? George Bush came along and said these are bad things to have hanging around, so we negotiated this treaty called the START II treaty where, in an incredible bit of negotiation on the part of the Republican administration, they convinced the Russians they should do away with these MIRVed missiles—do away with them. That means we would achieve crisis stability; it adds up to stability.

What is left on both sides are single-warhead missiles that don't have to be launched on warning, because they are less tempting targets in a first strike; therefore, you pull back from the hair trigger. So if, God forbid, there is a mistake, it doesn't mean Armageddon is guaranteed. That is a sound policy.

There is only one little trick. Russia has a quasidemocracy—my term, ''quasi'' democracy. They have learned the perils and joys of living with a parliament, a congress, a legislative body, called the Duma. The Duma has not ratified this agreement yet.

Why hasn't the Duma ratified the agreement? The Duma has not ratified the agreement for a lot of reasons. Some Nationalists think it is a bad idea; some old apparatchik Communists think it is a terrible idea; some of the democrats there don't quite know what to do as the next step. Here is what happens: Unfortunately for the Russians, the bulk of their nuclear arsenal is in these MIRVed, silo-based weapons, these intercontinental ballistic missiles with multiple warheads. The bulk of ours are on submarines (which are less vulnerable to a first strike), in single-warhead missiles called Minuteman missiles, or on B–1 bombers and B–52 bombers.

The Russians, if they go forward with the deal to destroy their silo-based MIRVed missiles, at the end of the day will have less destructive capacity in their arsenal than we will. Now, they don't have to keep it as less, because they are allowed to build single-warhead missiles so we would each end up with the same number of warheads. But guess what? They are bankrupt. They don't have any money. They hardly have the money they need to destroy the missiles they have agreed to destroy. That is why we have the Nunn-Lugar program, spending millions of dollars a year to send American technicians over to Russia to help dismantle, destroy, break up, and crush strategic weapons.

Think about that. If I had stood on the floor 20 years ago and said that, my colleagues would have had a little white jacket ready for me. They would have hauled me off to the nearest insane asylum, I having lost my credibility completely by suggesting that the Russians would ever let Americans come over and destroy their nuclear weapons.

The reason they made that agreement is that they realized it is in their long-term interests, and they had no money to do it. If they don't have money to do that, they also don't have money to build these new weapons that only have one bomb on the end. It costs a lot of money to do that. So if they can't do that and they keep the agreement called START II, they end up at the end of the day with fewer nuclear bombs than we have—something we

would never do. We would never allow us not to have parity with the Russians.

That is their dilemma right now. That is why the administration is arguing about a thing called START III. At Helsinki, President Clinton said not only should we do START II, we could jump and do START III and take the total number of nuclear warheads each of us has to between 2,000 and 2,500, from 6,000 to 6,500 which is in the first stage of the reduction.

Obviously, the Russians are very interested in being able to go right to START III. They don't want to spend a whole lot of time where we have more bombs than they have, and they don't have the money to build many new missiles. Although they are allowed to build more missiles, they don't have the money to do it.

What are we debating? We are here debating as if it were a serious part of our nuclear strategy whether or not we will deploy some time in the future a system that has not yet been developed, that if it is developed may be able to take out what might end up being up to five weapons that might be able to get to the continental United States, from a government that might be in place 5 years from now.

So, what to worry about, right? No problem, it is not going to stop the Russian missiles, so they are not going to get worried about this. Let's put this in reverse. Let's assume we were about to ratify a START II that was going to put us at having fewer nuclear bombs than the Russians, and we heard that the Russian Government was about to erect a nuclear shield—they called it a ''thin'' shield—to intercept missiles that were going to come from Iran. Now, I am sure not a single Member on this floor would say the following:

> You know, what those Russians are really doing is erecting something that is going to stop our missiles from being able to strike. What have they done to us? They have convinced our administration to destroy missiles that we have that can penetrate their territory now; they convinced them to do that. We are going to end up with fewer missiles than them, and they are going ahead at the same time and building this nuclear shield. And you actually have some people in the Duma saying, ''The ABM Treaty doesn't mean anything to me.''

What do you think would happen with my right-wing friends, my left-wing friends, my middle friends, all my friends? There would be a mild frenzy. I can hear the Republican Party now; they would be talking about the selling out of America, and they would have good reason to think about that. We would have Democrats joining, and I can hear Pat Buchanan now—he could make a whole campaign out of that.

Well, what do you think is going on in Russia right now with the Nationalists and the old Communists? Are they listening to our debate about the ABM Treaty, which some people say doesn't apply anymore? That is not what the sponsor of the amendment is saying, to the best of my knowledge, but others are. And we say to them that they should not worry. Why worry? We are only building this tiny, thin shield. Our shield isn't designed to affect them.

Yet, to the best of my knowledge, the sponsor of this bill would not even accept an amendment that would say, by the way, if whatever we come up with would violate the ABM Treaty, we will negotiate a change with the Russians first. It seems like a simple proposition, doesn't it?

Now, where does this leave us? I think I can say, without fear of contradiction, that at best, it leaves us with essentially a congressional resolution of no meaning, of no consequence, changing nothing that the administration has said about seeking the ability to have a thin missile defense system, for it doesn't appropriate money; it says this is subject—which is obvious—to the yearly appropriations bill. It doesn't make any guarantees; it doesn't say anything of consequence. In one sense, it is a meaningless resolution.

But in another sense, because we have debated it so vigorously, it is invested with a meaning beyond its substance. What I worry about now is that it will be taken as viewing our national strategy on nuclear weapons as no longer envisioning as the centerpiece of that strategy the ABM Treaty—the very treaty that allows us to keep reducing the number of strategic weapons on each side.

Let me make one more point. You may say, ''Well, BIDEN, what does the ABM Treaty have to do with the START agreement and reducing these nuclear weapons?'' Well, there are two kinds of truisms in this nuclear theology. One is, if you are incapable of building a missile shield, and you think the other side might build one, then there is only one thing you can do: build more missiles to overwhelm the defense system. That is axiomatic, it is cheaper, it is consistent with old-line policy, and it is doable. At a minimum, you would say, don't destroy the number of weapons you have.

Look at it this way. If you think the other team is about to put up this missile shield—thin, thick or medium—and you now have 6,500 weapons that can reach their territory, you know, as a matter of course, that if you reduce that number to 2,500 or 2,000, you have a two-thirds fewer opportunities to penetrate that shield. So why would you do that? Why would you do that?

I realize my friend from Louisiana is about to offer an amendment that I hope will at least be read as having the impact of saying, hey, look, arms reduction is still important to us—translated to mean the ABM Treaty still makes a difference. But let's understand that, at best, this bill is hortatory. At worst, it is a real, real bad idea because, to the extent that the threat is real—and there is a potential threat from Korea—to the extent that it is real, it pales, pales, pales in comparison to the threat that remains in Russia—a country that is, at its best, to be characterized now as struggling to keep its head above water; at worst, it is losing the battle of democratization.

Mr. President, the threat of a missile attack on the United States is real and disturbing, but the true test is not how angry we get, but how rationally we deal with the threats to our national interests. A rational development and deployment of a limited nuclear missile defense does not require us to ignore our ABM Treaty obligations. Only fear and politics drive missile defense adherents to take such a risk in the bill before us.

My generation understands both that fear and the dream of a ballistic missile defense. Anyone who has ducked under his desk in grade school in an air raid drill knows the collective sense of vulnerability and futility caused by the thought of a nuclear holocaust.

We have spent well over $100 billion in our effort to ease that sense of helplessness through civil defense or missile defense. But the role of this Senate, over two centuries, has been to resist those savage fears and passionate dreams that would otherwise take us down a dangerous path. America needs a balanced strategy to meet the rogue state missile threat, while also preserving the ABM Treaty, continuing the START process, and using nonproliferation assistance to combat loose nukes in Russia and, at the same time, advancing entry into force of the Comprehensive Test Ban Treaty. That is what I believe to be a sound and balanced strategy, and that is what I hope Senator KERRY and Senator LEVIN and I will propose in a thing called the ''National Security Policy Act of 1999.''

I respectfully suggest that it is a far cry from the ''bumper sticker'' bill that is currently before us. If reason can overcome fear, perhaps reason can also overcome politics. If the Republicans have the courage and foresight to pursue their goal of a limited national missile defense, while preserving arms control and strategic stability, I urge them to get to the business of talking about that.

But right now, what is left uncertain is not whether or not we should have a limited nuclear defense—we should and could if it is capable of being done—but it can and must be done only in the context of the ABM Treaty, START II and START III, as well as the Comprehensive Test Ban Treaty. That constitutes a national strategic policy.

Mr. President, I have departed from my text in order to convey the depth of my concern over this bill. Allow me now to restate those concerns in a more precise manner.

When I said that this was nothing more than an exercise in political theater, I may have sounded like the Police Commissioner in the film ''Casablanca.'' I am ''shocked . . . shocked'' to discover politics in the U.S. Senate. But we ought to make one thing clear:

the issue at stake is not—is not—whether to deploy a national missile defense.

Recent Administration actions make clear that it will deploy a missile defense system if that should be in the national interest. The real issue here is whether we will be pragmatic or ideological about it.

The pragmatic solution considers the cost of a missile defense; this ideological bill ignores it.

Serious technical challenges remain in developing a national missile defense system. But that is not for a lack of trying. In fact, we have committed significant resources to the effort. Deputy Secretary of Defense John Hamre testified last October that the National Missile Defense program ''is as close as we can get in the Department of Defense to a Manhattan Project.''

The Clinton administration has submitted plans to spend approximately $30 billion in additional funds between 1999 and 2005 for missile defense development and deployment. Of that, roughly $11 billion is earmarked for deployment of a ''thin'' National Missile Defense with 20 interceptors. The Defense Department estimated last summer that an expanded 100-interceptor system at a single site would cost upwards of $15 billion to deploy.

That $11–15 billion may very well provide us with a deployed system that is effective against rudimentary countermeasures. It is not at all clear, however, that it will buy a system that is capable against truly advanced countermeasures, such as are claimed for Russia's new SS–27 missile or even other current Russian or Chinese missiles.

Now, before my colleagues remind me that our missile defense system is not aimed at Russia, I would refer them to the Rumsfeld Report. That report warns that technology transfer is the key way that potential antagonists might acquire missile capabilities against the United States.

The danger is that we will spend billions of dollars deploying a missile defense system that may work against SCUD-like technology, but will not work even five or ten years down the road, against the potential threat from rogue states who have bought or developed more sophisticated missile technology.

It may be the case that we will have to spend those $11–15 billion dollars on missile defense deployment. It seems to me, however, that a much smaller sum might suffice to remove much of the threat that concerns us here.

If we could move from START to START Two and START Three, a portion of that $11–15 billion could be spent on dismantling Russian nuclear weapons and securing its large quantity of fissile material. This would make a real, immediate, and lasting contribution to our security.

Another portion of those funds could be used to curb North Korea's efforts to develop intercontinental missiles or weapons of mass destruction. It is clear that we need to inject new life into the 1994 Agreed Framework if we are to curtail North Korea's nuclear program. It is also clear that we need to take proactive steps to halt North Korea's long-range missile capability.

To be taken seriously, any U.S. initiative toward North Korea must combine carrots and sticks. We must bolster our deterrent posture to demonstrate to the North Koreans the penalties they face if they threaten United States security. Improving our theater defenses, increasing our capability for pre-emptive strikes if we should face imminent attack, interdicting North Korean missile shipments abroad, and increasing our security cooperation with other regional actors are all possible sticks we can wield.

At the same time, our policy should also provide adequate incentives to persuade the North Korean elite that their best choice for survival is the path of civil international behavior. These incentives could include our joining Japan and South Korea in funding two light-water reactors in exchange for our possession of the spent fuel in North Korea's Yongbyon nuclear reactor, sanctions relief in return for a verifiable end to North Korea's missile programs, and security assurances that we have no intention of forcing a change in North Korea's political system.

While these initiatives would cost money, together they could be funded for far less than the $11–15 billion we plan to spend for missile defense deployment. Thus, an article in Sunday's Washington Post noted that North Korea has already offered to cease exporting its missile technology in return for only one billion dollars.

We rejected that proposal, and I think we can get that deal for a lower price. But we should remember our experience in negotiating access to that suspect underground site in North Korea. In this time of famine, North Korea would settle for food aid instead of cash. And a billion dollars spent on food aid goes to American farmers, rather than to North Korean weapons.

I don't know how much it would cost to truly end North Korea's missile and nuclear programs, but we might consider putting our money where our mouth is. While an embryonic missile defense program might increase our sense of security, halting the North Korean's missile and nuclear programs would provide real benefit to our national security.

The pragmatic solution considers whether the first ''technologically possible'' national missile defense will be reliable and effective, especially in light of warnings by the head of the Ballistic Missile Defense Office that national missile defense is a ''high risk'' program. This ideological bill commits us to spend at least 5 million dollars per day to build and deploy that first system, even if it has only a mediocre test record.

Most importantly, the pragmatic solution considers ballistic missile defense in the context of the U.S.-Russian strategic relationship.

Perhaps we will need to deploy a national missile defense. But this ideological bill would foolishly sacrifice arms control, non-proliferation and strategic stability with Russia in order to field an imperfect missile defense.

And the fact is, we don't have to make that sacrifice in order to address the ballistic missile threat. But we do have to reject simplistic answers to complex issues.

The basic problem with this bill is not that it advocates a national missile defense, but that it is so narrowly ideological about it. What a shame, that we spend our time debating right-wing litmus tests. A bill that looked more broadly at challenges to our national security would be much more worthy of our attention.

To underscore that point, I intend to introduce in the coming days the ''National Security Policy Act of 1999.'' Working with me on that bill are Senator KERREY of Nebraska, who is Vice Chairman of the Intelligence Committee; and Senator LEVIN of Michigan, who is Ranking Member on the Armed Services Committee.

We earnestly hope that our bill will provoke a much more serious debate than is possible on the one-sentence bill before us. We invite our Republican colleagues to join with us in forging a comprehensive, truly bipartisan consensus on critical national security issues.

One such issue is the future of deterrence. Is deterrence so weak that we must deploy a national missile defense to combat third-rate powers like North Korea, Iran and Iraq? If so, then I believe we must reinforce deterrence.

Deterrence is—and will remain—the bedrock of U.S. nuclear strategy. Rogue states must never be allowed to forget that utter annihilation will be their fate if they should attack the United States with weapons of mass destruction. We should emphasize that basic fact.

What about the risk of ICBM's in the hands of a leader too crazy to be deterred? If that should happen, we should make it clear that the United States will destroy—pre-emptively—any ICBM's that such a leader may target at us. I intend that our bill will do that, building on our basic deterrence policy.

What is it about nuclear deterrence that makes it so hard for some people to support that strategy? Nuclear deterrence between the United States and the Soviets, and now between the United States and Russia, is based upon what is sometimes called ''Mutually Assured Destruction'' or a ''balance of terror.'' Each country maintains the capability to destroy the other, even if the other side strikes first.

Both the right wing and the left wing of American politics rebel against this.

They abhor leaving our very fates to U.S. and Russian political leaders and military personnel. They also hear the warning of some religious and ethical leaders that no nuclear war can ever be a ''just war'' in moral terms.

But the ''balance of terror'' remains in place, fully half a century after the Soviet Union joined the United States as a nuclear power. And those of us in the center of the political spectrum continue to support it.

Why is that? To put it simply: ''because it works.''

Yet one of the implicit purposes of this bill is to substitute our policy of deterrence with one of defense. Instead of deterring an attack on our territory we would defend against such an attack with missile defenses.

Some people believe we must make this transition from deterrence to defense—in this case using a National Missile Defense—because the leaders of North Korea, Iran, and Iraq cannot be deterred by the same means we have used to deter Russia and China. I disagree. These countries' leaders take tactical risks, but none has been willing to risk complete annihilation.

Let's consider the record of deterrence against extremist leaders.

In the 1950's, the Soviet Union under Joseph Stalin was deterred from a conventional invasion of Western Europe. But why? Why did the Soviets not crush the Berlin Airlift? Because Stalin—that great butcher of souls—feared a nuclear war.

Why did the Soviet Union pull back from confrontation in Berlin in 1961 and Cuba in 1962? Because Nikita Khrushchev—that foolish risk-taker who was later deposed by his nervous cohorts—still feared nuclear war.

Why has China not invaded Taiwan? Because every Chinese Communist leader—from the consummate butcher Mao to the would-be capitalist dictators of today—has feared nuclear war.

More recently, Saddam Hussein was deterred from using chemical or biological weapons during the Gulf War, despite his threats to do so, by the United State's promise that such an attack would meet with a devastating U.S. response.

The record demonstrates that extremist states are deterred when we credibly threaten to retaliate, and when our threatened retaliation imperils their vital interests.

That is what has deterred the Iraqis, the Soviets, and the Chinese from using weapons of mass destruction against U.S. interests in the past. That is what has brought the Serbs to the bargaining table, both in the Bosnian and Kosovo crises. That is what has deterred the Syrians from directly attacking Israel.

Yet our concern today is over the North Korean threat. At some point in the near future, the North Koreans may achieve a limited ability to strike U.S. territory. We must ask ourselves whether the logic of deterrence—a logic that has worked in so many other instances—will work against the North Koreans. Again, lets consider the record.

For years, North Korea has had the ability to rain short-range missiles on all of South Korea and to kill untold thousands within range of North Korean artillery. Yet the South Korean and U.S. militaries have kept the peace by threatening punishing retaliation should the North Koreans attack. We have kept the peace by threatening to destroy the very heart of the North Korean regime—its military—which is crucial to its control over its population.

Our military will continue to have that retaliatory capability in the North Korean theater of operations—whether we have a national missile defense or not. We maintain approximately 37,000 troops on the ground in Korea, including the 8th Army and 7th Air Force, to say nothing of the 47,000 American troops in Japan or the portions of the 7th Fleet deployed in the region.

Moreover, the North Koreans must know that our early warning radars could pinpoint the source of any missile attack on the United States and that such an attack would bring a devastating response.

Maintaining U.S. retaliatory forces, and demonstrating our willingness to use them when necessary, are the keys that have kept the peace. There is every prospect that the credible threat of retaliation will continue to deter extremist states in the future.

So let us all think carefully—and rationally—before letting our fears of destruction move us away from a policy that has avoided destruction so well and for so long.

Traditional deterrence may unnerve us because it depends upon rational leaders and weapons control systems. But the alternative—missile defense—depends in turn upon the perfection of complex systems and their human components.

Think of the great computer-assisted systems of our time: the Internal Revenue Service, the air traffic control system, credit bureaus, or the National Weather Service.

Then ask yourselves whether missile defense will really make you safe—especially if the price of it is the end of the START process and, therefore, continued Russian reliance upon MIRVed ICBM's.

Whatever missiles a rogue state might build, however, the one missile threat to our very existence is still from Russia. A rogue state might deploy a few tens of nuclear warheads; Russia has thousands. And what is especially appalling is this bill's cavalier treatment of the U.S.-Russia relationship.

As we debate S. 257, I have to ask myself: Why is the other side so determined to pass this bill, rather than a more serious piece of legislation? The sad truth is that the real goal of many ballistic missile defense adherents is to do away with the ABM Treaty.

Why would they want to do that? Because they know that the ''thin'' missile defense proposed in this bill is at best a strictly limited defense. It may work against a handful of incoming missiles, but not against an attack of any serious magnitude.

To achieve a defense against a serious ballistic missile attack with nuclear weapons, we would probably need multiple radar sites—perhaps using ship-borne radars—and surely more interceptor sites. (The Heritage Foundation proposes putting the interceptors on ships, as well.)

To stop a serious missile attack using chemical or biological warheads, we might well need a boost-phase intercept system, either ship-borne or space-based. That is because the chemical or biological agents could be carried in scores of bomblets dispersed shortly after boost-phase shut-off. The national missile defense systems currently under development would be nearly useless against such bomblets.

So missile defense is rather like Lay's Potato Chips: it's hard to eat just one. For the real ballistic missile defense adherents, even ''Star Wars'' is therefore not dead. But the ABM Treaty bars both ship-borne and space-based ABM systems.

Still, the dream persists: if only this bill were passed, if only the ABM Treaty were killed, then ''Brilliant Pebbles'' or some other system could be pulled out of the drawer, dusted off, and contracted out to every congressional district to keep the money coming.

Many missile defense adherents are quite open about their determination to kill the ABM Treaty, and frustrated because Congress lacks the Constitutional authority to do that. Some fall back on strained legal theories to argue that the break-up of the Soviet Union left the ABM Treaty null and void—while hoping that nobody will apply that reasoning to other U.S.-Soviet treaties.

At other times, missile defense adherents press to deploy a ballistic missile defense regardless of whether this requires violation or abrogation of the ABM Treaty. That is what this bill would do.

If we enact S. 257 and make it U.S. policy to deploy an ABM system without addressing Russian concerns and U.S. treaty obligations, then Russia will almost certainly use its thousands of ICBM warheads to maintain its nuclear deterrence posture.

That would end strategic arms control. It would also sacrifice our longstanding goal—ever since the Reagan Administration—of removing the greatest threat to strategic stability: land-based, MIRVed ICBM's.

MIRVed ICBM's—with Multiple, Independently-targeted Re-entry Vehicles—are the cheapest way for Russia to overwhelm a missile defense. But they also put nuclear Armageddon just

a hair-trigger away, because a missile with 3, or 7, or 10 warheads is a truly tempting target for a first strike by the other side.

In a crisis, a Russia that relies upon MIRVed ICBM's may feel it has to ''use them or lose them.'' That's why President Bush signed START Two to ban those missiles.

Today, maintaining the START momentum is a real national security challenge. The Russian Duma has balked at ratifying START Two, largely because Russia cannot afford to replace its MIRVed ICBM's with enough new, single-warhead missiles to maintain the force levels permitted by the treaty.

But major force reductions under START Three, to reduce nuclear forces to a level that Russia can hope to maintain, could get the Russian Duma to permit Russia to give up MIRVed ICBMs.

Serious legislation would call for lower START Three levels than those proposed at the Helsinki summit in 1997. The bill before us, by contrast, would put the final nail in the coffin of START Two.

That is because Russia truly doubts that it can do without MIRVed ICBM's if the United States deploys a national missile defense. Now, U.S. officials are explaining to Russian leaders how a limited missile defense could defend America without threatening Russia or the basic goals of the ABM Treaty.

The Administration thinks there is a reasonable chance of bringing Russia around. But that will take time. Our bill will endorse that process of education and negotiation.

Passage of S. 257, by contrast, risks torpedoing those important U.S.-Russian talks. This bill will very likely be seen by Russia as a slap in the face. And it's hard to blame them, when the litmus-testers set up a vote just a few days before Russia's Prime Minister is due here for talks with Vice President GORE.

If my colleagues want a limited national missile defense without sacrificing the ABM Treaty, we can get that. If, however, their real aim is to kill the ABM Treaty and strategic arms control, then they are making a tragic mistake.

S. 257, which ignores our treaty obligations, could force us to abrogate the ABM Treaty. Enactment of this bill would thus practically guarantee that the START process would collapse, leaving us facing MIRVed Russian ICBM's for decades to come.

One of the fascinating questions in the missile defense debate is why missile defense adherents are so willing to sacrifice the START process. The answers tell us a lot about isolationist ideology and the politics of paranoia.

Isolationists in the Senate—mostly Republicans—have a long history of opposing international obligations. Henry Cabot Lodge opposed the League of Nations after World War I. Republicans opposed Franklin Delano Roosevelt's preparations for World War II, and some continued to accuse him of ''getting us into'' that war for another 20 years, as though America would have been better off accepting a Nazi Europe. And some Republicans opposed the United Nations in the post-World War II world.

Conservative Republicans have opposed arms control treaties as well, from the Limited Test Ban Treaty of 1963 to the SALT Treaty of 1972, the Threshold Test Ban Treaty of 1974, the START Treaties of 1991 and 1993, and the Chemical Weapons Convention of 1993. Today they oppose the Comprehensive Test Ban Treaty and call for an end to the Anti-Ballistic Missile Treaty of 1972.

Imagine their frustration, then, with the tendency of Republican Presidents to negotiate and sign arms control treaties. Dwight Eisenhower's pursuit of a test-ban treaty was the first betrayal, even though it was John F. Kennedy who finally signed the Limited Test Ban Treaty.

Richard Nixon was truly a turncoat, to many Republicans. Aside from recognizing Communist China, Nixon signed both the ABM Treaty and the SALT Treaty with the Soviet Union. The Soviets promptly used a loophole in SALT to deploy the MIRVed SS–19 ICBM, which the Senate had thought would be illegal under the treaty. Republican anger was hardly lessened when it came to light that the Soviets had told U.S. officials of their plans, and that the word had not been passed to the Senate.

I think that the conservative Republican anger at Henry Kissinger—which continues to this day—is due to his willingness to pursue arms control with the Soviet Union and better relations with China, even as the United States bombed their ships in Haiphong harbor. Nixon and Kissinger pursued the Vietnam War far beyond the point of diminishing returns, and they supported right-wing regimes from Greece to Chile and Guatemala. But their subtle power politics rejected isolationist ideology, and true-blue conservatives never forgave them.

Gerald Ford was hardly better, as he signed the Threshold Test Ban Treaty.

Ronald Reagan could never be seen as a traitor to the right wing. He brought it into the White House and brought Republicans to power in the Senate. He opposed SALT Two and breached the limits of that signed-but-unratified treaty. He also brought back the missile defense issue, with his Strategic Defense Initiative—better known as ''Star Wars,'' as much for its overreaching ambition as for its space-based architecture.

Even Ronald Reagan puzzled many right-wingers, however, when he came out against nuclear weapons and proposed sharing Star Wars technology with the Soviets. Puzzlement turned to frustration in the Bush Administration, as some Reagan proposals were actually accepted by the Soviet Union and its successors: especially the Intermediate Nuclear Forces agreement, the START Treaties, and the Chemical Weapons Convention.

The Clinton Administration has achieved ratification of START Two and the Chemical Weapons Convention, but perhaps only because former Republican officials worked with Democrats to complete President Bush's legacy. The real political problem with the Comprehensive Test Ban Treaty is that it was a Democratic president who signed it.

The truth is that conservative Republicans are still uncomfortable with the whole concept of arms control. They see arms control treaties as either hamstringing the United States or defrauding the world by merely codifying what the two sides would have done unilaterally.

Against this background, it is not so surprising that Republicans are willing to sacrifice the START process in order to kill the ABM Treaty. Conservatives were not very pleased to be signing arms control treaties in the first place. To them, the end of the Cold War is a time to rid ourselves of those ''foreign entanglements,'' to use President Washington's famous phrase.

As a Democrat, I must admit to being perplexed by some of this behavior. You might expect that conservatives would appreciate the virtues of ''law and order'' in the field of strategic weapons, just as they preach it at home.

Certainly professional military officers appreciate the virtue of predictability that enables them to prepare more rationally for any future conflict. As a result, the military nearly always supports ratification of arms control treaties, again to the great frustration of conservative Republicans. The Comprehensive Test Ban Treaty is just the latest example, as every Chairman of the Joint Chiefs of Staff since General David Jones from the Reagan Administration supports ratification, while conservative Republicans in the Senate vow to keep that treaty from coming to a vote.

Perhaps the real clash here is between ideology and reality. Conservative Republicans idolize self-reliance, both in the individual and in the state.

The Great Depression of 60 years ago and the interdependent world economy of today have made rugged individualism an insufficient guideline in economic and social policy. Two world wars and the threat of annihilation posed by weapons of mass destruction have done the same thing in our international relations.

The American people understand this and vote consistently against those who would sacrifice national or international consensus for the sake of left-wing or right-wing ideologies.

But the dream of unfettered individualism lives on. For some, it is the dream of resuming nuclear weapons tests, even though the price of that would be permitting similar tests by

increasing numbers of other countries. For others, it is the dream of fighting the next war in the so-called ''high frontier'' of outer space. And for still others, it is the dream of a shield against enemy missiles—perhaps a U.S. shield against our enemies or, in some versions, a U.S.-Russian shield against the rest of the world.

To these dreamers, the bill before us is but a first step. A ''thin'' national missile defense will lead to ''thicker'' defenses. Demise of the ABM Treaty and strategic arms control will merely usher in an age of unfettered nuclear dominion, as the United States builds an eventually impregnable, space-based defense from missiles of all sorts.

This is only a dream. But it is a dream that energizes the right wing. And it is a dream that has become a litmus test for Republicans in this body.

That is truly a shame. For rational policy must be built on reality, not on dreams.

Mr. President, the threat of a missile attack on the United States is real; it is disturbing. But the true test of statecraft is not how angry you get, but how rationally you deal with threats to the national interest.

A rational development and deployment of a limited national missile defense does not require us to ignore our ABM Treaty obligations. Only fear and politics drive missile defense adherents to take such a risk in the bill before us.

My generation understands both that fear and the dream of a ballistic missile defense. Anyone who has ducked under his desk in a school ''air raid'' drill knows the collective sense of vulnerability and futility caused by the thought of a nuclear holocaust. We have spent well over a hundred billion dollars on efforts to ease that sense of helplessness through civil defense or missile defense.

But the role of this Senate, for over two centuries, has been to resist those savage fears and passionate dreams that would otherwise take us down dangerous paths.

America needs a balanced strategy, to meet the rogue-state missile threat while also preserving the ABM Treaty, continuing the START process, using non-proliferation assistance to combat ''loose nukes'' in Russia, and achieving entry into force of the Comprehensive Test-Ban Treaty.

That is what I hope Senator KERREY, Senator LEVIN and I will propose in the ''National Security Policy Act of 1999.'' It is a far cry from the bumper-sticker bill currently before us.

Let me make a special appeal to those Republican members with whom we Democrats make common cause to support threat reduction programs in the former Soviet Union. Some of those programs, like the Nunn-Lugar program, further the START process by underwriting the destruction of former Soviet weapons.

Others guard against proliferation by safeguarding or downgrading special nuclear material and by improving export and border controls to prevent the proliferation of weapons of mass destruction. Still others help weapons scientists and technicians to find non-military employment, so they will not have to consider contracts with rogue states for their dangerous goods or services.

Economic collapse and resurgent nationalism may be closing Russia's window to the West. But these programs help to keep that window open. The Clinton Administration has seen the risks and opportunities that are inherent in Russia's economic plight: the risk of rogue-state recruitment has increased, but so has the buying power of every dollar and Deutschmark that we and our allies can devote to threat reduction and non-proliferation assistance.

The Expanded Threat Reduction Initiative announced last month deserves our support, and I am confident that it will gain that support. I believe that we should do even more, including financing retired officer housing in return for Russian withdrawal of troops from Moldova and Georgia.

We should also consider more programs that employ former weapons experts in non-military pursuits, even if their activities are not likely to result in commercially viable ventures. Eventually the Russian economy will turn around and provide new careers for the talented experts from the Soviet Union's nuclear, chemical weapons, biological weapons, and long-range missile programs. Until that happens, however, it is clearly in our national interest to keep that talent off the international market.

Democrats will support our moderate Republican friends on these issues, and I believe that Republicans will support our similar efforts in return. But my moderate Republican friends should not deceive themselves: these programs will not survive if right-wing policies on national missile defense bring down the ABM Treaty and the START process.

Russian pride is already damaged by its shattered power and by the need to accept our money. If a precipitous decision to deploy missile defense leads Russia to preserve its MIRVed ICBM's, Cooperative Threat Reduction will be ended. Once that goes, I predict that Russian cooperation on non-proliferation will go as well.

Then our nuclear and chemical and biological weapon fears will expand from the fear of missile warheads to the fear of every ship or plane or truck that approaches our borders. And the far-sighted legacy of Sam Nunn and his concerned co-sponsors will have been but a blissful rest stop on the highway to destruction.

If reason can overcome fear, perhaps reason can also overcome the politics behind S. 257. If Republicans have the courage and foresight to pursue their goal of a limited national missile defense while preserving arms control and strategic stability, I urge them to withdraw S. 257 and talk to us.

Otherwise, I urge all my colleagues to reject this bill and avert the substantial peril that it risks to our national security.

I hope the amendment of my friend from Louisiana prevails because, although she may not mean it this way, I read it to say arms reduction is still vitally important. Arms reductions are critical and, I would argue, are not capable of being conducted with any efficacy in the absence of an ABM Treaty.

I thank my colleague for allowing me to speak, my colleague from Louisiana who is about to introduce her amendment. I also thank my friend from Mississippi, who is a consummate gentleman for following and listening to what I have to say.

I yield the floor.

AMENDMENT NO. 72

(Purpose: To add a statement of policy that the United States seek continued negotiated reductions in Russian nuclear forces)

Ms. LANDRIEU. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. VOINOVICH). The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Ms. LANDRIEU), for herself, Mr. LEVIN, Ms. SNOWE, Mr. DORGAN, Mr. BREAUX, and Mr. LIEBERMAN, proposes an amendment numbered seventy-two:

At the end, add the following:

SEC. 3. POLICY ON REDUCTION OF RUSSIAN NUCLEAR FORCES.

It is the policy of the United States to seek continued negotiated reductions in Russian nuclear forces.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Thank you, Mr. President.

Mr. President, it is a simply worded amendment but a very important amendment.

The distinguished Senator from Delaware brought up excellent points in terms of the necessity for us, as we consider this important bill that the Senator from Mississippi has brought to us, to continue to talk about our commitments to further reductions of nuclear weapons.

I strongly support a limited national missile defense. It is important that we pursue this program with energy and determination. But we must also keep pursuing other means of enhancing our security.

We need to move our strategic relationship with Russia from the cold war paradigm of mutually assured destruction to one of mutually assured security. We have made great progress in this regard, as has been pointed out in the last hour on this floor by Members on both sides, but much remains to be done.

However, in making this transition, we cannot allow the territory of the United States to be threatened by ballistic missiles from rogue nations, especially if it is in our capacity to protect ourselves from this imminent

threat. Nevertheless, we should not allow our missile defense effort to distract from our security relationship with Russia, if at all possible. And that is the essence of this amendment.

Our country and Russia have come a long way in terms of reducing strategic nuclear threats to both countries, and nothing we do today should negate this progress. But, in my view, nothing in the 20th century has contributed more to American security than an end to the imminent threat of nuclear war.

It is important that we carry this momentum to finish the task. No threat from a rogue nation should outweigh the need for us to attain a mutually secure and stable relationship with our Russian partners. On the eve of a visit from Prime Minister Primakov, it is important that we continue to work towards this goal and we use this opportunity to further our negotiations.

Therefore, I offer this amendment, which simply states that it is our policy to seek continued negotiated reductions in Russian nuclear forces which will reaffirm the Senate's belief that such reductions are in our national interests. It would also be an important signal to the Russians on the eve of that visit.

Furthermore, this amendment is in keeping with the recommendations of our National Defense Panel. As you know, the NDP was created by Congress to review the Pentagon's conclusion in its Quadrennial Defense Review. It is a nonpartisan panel of defense experts, some of the finest minds working on national security. They are in agreement that a defensive system, such as our national missile defense, is best developed if coupled with limiting our offensive capabilities in our arms reduction efforts.

That is what we are trying to do with this amendment. I believe it will receive bipartisan support. It will help make this bill an even better bill.

Before I conclude, I would like to add just a few things to the RECORD that I think are very important as we negotiate the passage of this important piece of legislation.

Our distinguished colleague from Mississippi did not include this language in his very simple bill to deploy an effective national missile defense system in his efforts to gain support. And I agree with that. But I think it is important, Mr. President, for those who are considering whether or not to vote for this bill—and I hope they will vote for this amendment and then vote for the bill—for me to take 2 minutes to read into the RECORD some important statements that have been made by our President, as well as some of the enemies of this country, about why it is important for this bill to pass.

Not last year, not the year before, but in 1994, President Clinton certified that:

> I * * * find that the proliferation of nuclear, biological, and chemical weapons ('weapons of mass destruction') and the means of delivering such weapons, constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.

For those who say the threat is not real, recently—last year—some new information came out about the significance of this threat.

This is 1994.

Let me go on to read:

> Several countries hostile to the United States have been particularly determined to acquire missiles and weapons of mass destruction. President Clinton observed in January of 1998, for example, that ''Saddam Hussein has spent the better part of this decade, and must of his nation's wealth, not on providing for the Iraqi people, but on developing nuclear, chemical and biological weapons and the missiles to deliver them''.

Let me also say that it is not just this country. Qadhafi, the Libyan leader, has stated:

> If they know that you have a deterrent force capable of hitting the United States, they would not be able to hit you. If we had possessed a deterrent—missiles that could reach New York—we would have hit it at the same moment. Consequently, we should build this force so that they and others will no longer think about an attack.

I could go on. But I think the RECORD is replete with quote after quote by hostile leaders to the United States that it is most certainly their intention to develop these weapons that could possibly hit our homeland. Although it is hard for people to think about this—and we most certainly don't want people to panic—we want to be realistic to the threat.

I thank the Senator from Mississippi for bringing this bill before us at this time.

I offer this amendment in an attempt to get more bipartisan support for what I consider to be a good bill, and a quite timely one, that will not, and should not, disrupt our ongoing and very beneficial relations with Russia in our reductions, but one that will protect the people of Louisiana, the people of Alaska, the people of Mississippi, the people of Michigan, and everyone in this Nation for this growing and imminent threat that even the President himself has acknowledged over and over is real.

I yield the remainder of my time. I ask the floor leaders to give whatever time they think is appropriate to the discussion of this amendment. I will call for a rollcall vote at the appropriate time.

Several Senators addressed the Chair.

Mr. ALLARD. Mr. President, I believe the minority manager wants to be recognized. I yield, with the understanding that I will follow.

Mr. LEVIN. Mr. President, I thank my friend from Colorado.

I want to make an inquiry of both him and the Senator from Louisiana as well and, of course, the floor managers, and the sponsors of the bill. We are trying to determine how much time is going to be needed on the Landrieu-Levin amendment which is pending. We are seeking a fairly early vote on this amendment. I wonder if I can inquire of my friend from Colorado approximately how long he plans on speaking.

Mr. ALLARD. Probably 15 to 20 minutes would be adequate for my remarks. I request 20 minutes, and then, if I finish before that, I will yield back.

Mr. LEVIN. There is no time limit, of course, at this point.

Mr. President, I then alert our colleagues. I think I am speaking for Senator COCHRAN also. We are seeking to know how many people will want to speak on the pending amendment after the Senator from Colorado has completed. Perhaps the cloakrooms can be notified of that promptly, if that is appropriate, so we can determine just whether it is possible to have a vote on the pending amendment sometime prior to the—what was the Senator's goal?

Mr. COCHRAN. Mr. President, if the Senator will yield, I would like to see a vote around 4:30, or 4:45 at the latest.

But we don't want to cut any Senators off. If others want to speak on this amendment, then we want to encourage them to come over and let us hear their remarks. This is an amendment we are prepared to recommend be approved by the Senate. We think it is a good amendment, noncontroversial, helps the bill, strengthens the bill, and I compliment the distinguished Senator for offering it.

PRIVILEGE OF THE FLOOR

Mr. LEVIN. Mr. President, I ask unanimous consent that the privilege of the floor be granted to John Bradshaw, who is a fellow in Senator WELLSTONE's office, during the pendency of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, we will propound a unanimous consent agreement hopefully after the Senator from Colorado has completed his presentation. I will need about 10 minutes in support of the Landrieu-Levin amendment, which is a critically important amendment. It should be discussed before we vote on it because of the impact it will have, I believe, on the bill and perhaps on the vote on the bill, because it will also have an impact on the recommendation of the senior advisers to the President as to whether or not he will veto this bill.

Because it is so significant—it is simple but very vital and very significant—it is important that there be discussion of the Landrieu amendment. So I will need about 10 minutes on that, I alert my friend from Mississippi. We can figure out if any time agreement is possible after the Senator from Colorado has completed. I thank him for his courtesy.

The PRESIDING OFFICER. The Senator from Colorado.

PRIVILEGE OF THE FLOOR

Mr. ALLARD. Mr. President, I rise in support of S. 257, the National Missile Defense Act of 1999. Before I make my comments, I ask unanimous consent

that Tim Coy be granted the privilege of the floor for the duration of the consideration of S. 257.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. Mr. President, I thank the Senator from Mississippi for his thought and effort in this regard.

Mr. President, I think we get stuck in the way things used to be. The fact is, this is a changing world. We have changing dynamics as far as what other countries are doing in regard to weapons development and what their risks may be to the mainland of the United States.

My colleague from Mississippi has said yes, this is a changing world out there and we need to make sure we have a national missile defense system. If you talk to the average Americans out here on the street, they think we do have a national missile defense system. The fact is, we are no longer in a cold war era where the foreign policy of threat of mutual destruction is going to be effective. We are in a modern era where countries can develop a missile rather quickly, because of the natural resources that they have—maybe it is oil and gas—and with these huge financial resources that all of a sudden become available to them. In fact, we have heard testimony in the committees on which I serve—I serve on both the Intelligence Committee and the Armed Services Committee—that the time required for a newly developed country to build a missile from scratch has halved in the last few years. That is because there is lots of technology out there, that is readily available, that they can acquire quickly. They can put this all together into a very effective offensive system if they so choose.

So I want to take some time today to talk about what the bill means to me, and some of the language in the bill specifically. I would like to talk a little bit about the threats of today's world and talk about the system's feasibility. We have heard comments here on the floor that we are dreaming, that this is really not that feasible an approach. I want to make some comments in that regard and talk a little bit about the cost of the system and how I think we can pay for it. And then, finally, before I conclude, I want to talk a little bit about the ABM Treaty and the treaty ramifications.

What does S. 257, the National Defense Act of 1999, do? Simply, the National Defense Act of 1999 states that it is the policy of the United States ''to deploy as soon as technologically possible a National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether that is accidental, unauthorized or deliberate).''

The bill's policy statement is identical to that of S. 1873, which was proposed during the 105th Congress, except for the addition of the statement that missile defense is subject to the authorization and appropriations process, which is an amendment we just adopted here in a vote we had around 2 o'clock or 2:15.

This bill does not mandate a date for deployment of a system, calling instead for deployment as soon as the required technology is mature.

As I mentioned earlier, the United States has no defense against these systems, but I think it is important that we continue to push for their development as soon as it is technologically feasible—that we quickly move ahead. I think this is completely compatible with the January 20, 1999, statement of the Secretary of Defense: ''The United States in fact will face a rogue nation threat to our homeland against which we will have to defend the American people.'' And, he goes on to say, ''technological readiness will be the sole remaining criterion'' in deciding when to deploy a national missile defense system.

Secretary Cohen stated on February 3, 1999, during the Armed Services hearing, that any country which fires ballistic missiles at us will face immediate retaliation. Again, this is the old, cold war attitude of mutual destruction. While I agree with this statement, we again decide to place ourselves at the mercy of rogue states instead of being proactive in protecting our citizens, because these rogue states have the capability of developing a system of missiles with some type of warhead—whether it is bacteriological, chemical, or nuclear—and we do not have any defense system today to counteract any missile that would be headed towards the United States.

I would like to talk a little bit about the threats that are posed to the U.S. mainland today. I want to refer to the July 1998 Rumsfeld report on ballistic missile threats to the United States. The commissioners who put together the report concluded:

> [T]he threat to the U.S. posed by these emerging capabilities is broader, more mature and evolving more rapidly than has been reported in estimates and reports by the Intelligence community.

The report goes on and further states:

> [T]he warning times that the U.S. can expect of new ballistic missile deployments are being reduced.

I believe the missile threat to the United States is growing at an accelerated pace. Numerous hostile nations have declared their intent to obtain missiles capable of attacking the United States, and are succeeding in doing so. These include launches that have been made from North Korea and China, the old missile fields of the former Soviet Union—now in the Commonwealth of Independent States. I happen to believe that very soon Iraq, Iran, Libya, India, and Pakistan will have the same capability.

Two of the worst proliferators of ballistic missiles are North Korea and Russia. North Korea has tested a missile capable of attacking Alaska and Hawaii, and is apparently developing a second missile which will be capable of reaching the entire United States mainland. North Korea has sold every missile it has developed, and the associated technology, to other rogue states.

During the Armed Services hearing on February 2, 1999, Director of Central Intelligence George Tenet said:

> North Korea is on the verge of developing ballistic missiles capable of hitting the continental United States.

Again, relating to the North Koreans' launch when they set off a second-stage rocket that went over the tip of Japan, Tenet said:

> The proliferation implications of these missiles are obviously significant.

During the hearing, Director Tenet also warned that Russia is reneging on their earlier commitment to the United States to curb the transfer of advanced missile technology to Iran. Again, he stated:

> The bottom line is that assistance from Russian countries is still contributing substantially to progress in Iran's dangerous missile programs.

He added:

> India, Pakistan, and Iran, who have traditionally been considered technology customers, now have developed capabilities that could, in some cases, be exported to others.

So here we are. We have a commission set up by the United States to analyze our defensive posture and our ability to counteract a missile attack, and we have the Director of the Central Intelligence Agency both warning us that we need to update our defense system to a current situation that exists throughout the world. I happen to believe both the report as well as the comments by George Tenet. I think that we need to move forward.

The President's 3+3 Missile Defense Plan has already been pushed back to 2005, but the problem is that the threat is right now. It is not in 2005. In December, Robert Walpole, National Intelligence Officer for Strategic and Nuclear Programs, said in a speech that the Central Intelligence Agency was caught by surprise by North Korea's flight testing of a three-stage missile. While the third stage of the missile failed, CIA analysts had to agree to the Rumsfeld report, as I stated earlier in my comments, that the threat is here despite the CIA's dismissal of the report when it was released.

I want to talk a little bit about the feasibility of us moving ahead with the technology that we have today. We have the pieces of a national missile defense system with proven technology. However, the risk to development lies not in the pieces but in the integration of these pieces into an effective system in a timely manner, which is exactly what this bill does. When we talk about the term ''technologically possible,'' it includes system integration. There is no date in the bill. The bill just calls for the policy to deploy when technologically possible.

During a February 3, 1999, Sea Power interview, General Shelton said:

The simple fact is that we do not have the technology to field a national missile defense. . . . My colleagues—the Joint Chiefs and I—believe that when we have the technology for NMD, we ought to have the capability to be able to transition right into the deployment, if the threat warrants.

A followup on that, Ted Warner, Assistant Secretary of Defense for Strategy and Threat Reduction, said that the threat is no longer the issue holding back national missile defense, but technical feasibility is all that drives deployment.

During a February 3, 1999, Armed Services hearing, Secretary Cohen stated that the Department is committed to advancing its missile defense efforts as technology risks allow, without any mention of when the threat is there. He admits that the threat is here now.

I will discuss the architecture of a national missile defense system. The architecture for national missile defense consists of three pieces: the battle management system, the radars that detect incoming missiles, and the booster and ground-based interceptor that will comprise our response.

The battle management command, control and communications system will receive data on the incoming missiles, calculate the number of interceptors needed to destroy the missiles, and monitor the status of the test elements, giving decisionmakers a prioritized set of choices for our response. Portions of this system have already been tested and performed flawlessly in previous tests.

Our current detection system consists of a combination of upgraded early warning radars, new ground-based radars and our space-based satellites. Once the satellites detect a launch, they will pass the data to our ground-based radars, which will create a detection net to gather high-fidelity data on the incoming missile that will help our interceptor strike its target. The upgraded early warning radars have been rigorously tested using both computer simulations and actual test launches and are more than capable of performing their mission.

Their replacement, a space-based infrared radar system, will vastly improve our detection. Moreover, our targeting capabilities will be increased with the eventual deployment of a complementary low space-based infrared system which performs cold-body tracking of incoming missiles.

The least proven piece of the architecture may very well be the booster and interceptor. Various parts of the interceptors, such as the seeker, have been tested many times, and the test objectives have been met. Actually, just yesterday the PAC–3 missile collected, detected, tracked and gauged and then hit an incoming test missile.

The technology exists to build a national missile defense system. Further testing of integration should show whether the system is ready to deploy. Requiring more studies and analysis to see if the technology is here, which it is, before we decide to deploy will only place us at the mercy of a threat we already know is out there.

Let me speak a little bit about the cost of the system. With regard to the national missile defense budget, on one hand, the administration added $600 million from its fiscal year 1999 emergency supplemental but has yet to put forward exactly where this money will be spent. There was discussion to use part of this money for the Wye peace agreement. Then the administration added $6.6 billion over the 5-year plan for the national missile defense but pushed the majority of the money into the outyears, making it vulnerable to future cuts and the whims of another administration. I happen to believe that we should field an NMD system as soon as it works. Given that most of the system is technologically feasible already, we should be putting money in military construction and procurement starting in fiscal year 2000 and deploy much earlier than the year 2005.

To make a few comments about the ABM Treaty and the treaty ratification, this bill is not about the ABM Treaty, specific architecture, deployment dates, or reports. The cold war is over, and we shouldn't hold to the cold war ways of protecting ourselves, the ABM Treaty. MAD, referred to as mutually assured destruction, should not rule our defense posture. We are no longer facing a superpower but now face rogue states.

We keep hearing that if we deploy a missile defense system, Russia will not ratify START II. They have used this threat entirely too many times—in the bombing of Iraq, they used it; in the sanctions for missile proliferation with Iran.

As columnist Charles Krauthammer wrote:

What standing does Russia, of all nations, have to dictate how and whether the United States will defend itself? Russia is the principal supplier to Iran of the missile and nuclear technology that could one day turn New York into a Hiroshima.

The administration has been saying that any national missile defense is not directed at Russia. National Security Adviser Sandy Berger said:

It's directed at rogue states that have long range missiles. These are threats not only to us, but to the Russians.

In conclusion, Mr. President, a firm policy to build a defense against ballistic missiles will send a clear message to rogue states that they are wasting their money building ballistic missiles with which to attack or threaten the United States. If rogue countries decide to ignore this message, the United States will be prepared to protect itself as soon as the technology is ready against such attack or threat of attack.

The bill is a policy declaration, making clear to the citizens, allies, and adversaries of the United States that it will not remain defenseless against a ballistic missile attack. I believe there is a need to have a bipartisan bill, and this is a bipartisan bill. This bill was introduced by Senator COCHRAN and Senator INOUYE, and the exact same bill in the 105th Congress had three Democrat cosponsors, with four voting for cloture.

Let me end with a final conclusion from the Rumsfeld report and our ability to protect the threats for the future:

Therefore, we unanimously recommend that U.S. analyses, practices and policies that depend on expectations of extended warning of deployment be reviewed and, as appropriate, revised to reflect the reality of an environment in which there may be little or no warning.

I yield the floor, Mr. President, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous-consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, has anyone propounded the unanimous-consent request?

The PRESIDING OFFICER. No.

UNANIMOUS-CONSENT AGREEMENT

Mr. COCHRAN. Mr. President, I ask unanimous consent that there now be 20 minutes for debate on the pending amendment, with the debate divided as follows: 10 minutes for Senator LEVIN; 5 minutes for Senator LANDRIEU; 5 minutes for Senator COCHRAN. I further ask unanimous consent that following that debate, the Senate proceed to a vote on, or in relation to, the amendment, with no other amendments in order prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the amendment of Senator LANDRIEU that is pending is a very simple and a very straightforward amendment, but it is a vital amendment. It will make a major difference in this bill, because if this amendment is adopted, this bill will contain two policy statements. It now contains but one. The policy statement that it currently contains has to do with the deployment of a missile defense system. The policy statement, which the Landrieu amendment will add, is that it is the policy of the United States to seek continued negotiated reductions in Russian nuclear forces.

This is a very significant policy statement, and I want to take just a minute and explain why.

In my opening comments on this bill, I addressed what I consider to be a number of flaws or omissions in this bill. I talked about the fact that there is no reference here to ''operational effectiveness.'' One can look at the word

''effective'' in this bill's language and argue, I think reasonably, that operational effectiveness is included in that term ''effectiveness.'' Nonetheless, I think the bill would be stronger if that were clearer. That was one of the issues which was raised.

It is a very important question to our uniformed military and to the Secretary of Defense, because they want to be sure that before any decision is made to deploy, that we have an operationally effective system, that it works. And those are not just casual words. ''Operational effectiveness'' are words that have a very important technical meaning to our military.

I also pointed out in my opening remarks that there was no reference in here to cost. Now there is.

With the Cochran amendment that was adopted earlier this afternoon, we now at least have an acknowledgment that the usual authorization and appropriation process is going to apply to national missile defense. The authorizers and the appropriators naturally look at cost. So there is now, at least in this bill with the adoption of the Cochran amendment, a way in which the cost issue will be addressed in the years to come.

Another factor which the uniformed military and our civilian leadership wanted to look at is the threat. I think it is clear to most of us that there is a threat that was not predicted to come this quickly but which is either here or will soon be here from states such as North Korea.

Finally—and this was the one which to me was the greatest sticking point—is the omission in this bill, until Senator LANDRIEU's amendment was introduced and hopefully will be adopted, of the acknowledgment of the importance of continuing to negotiate reductions in Russian nuclear forces. Those reductions are critically important to our security. Those reductions have been carried out, and hopefully additional reductions will be carried out, because we have a treaty with Russia which has allowed for these reductions to be carried out in a way which is strategically stable.

That treaty, called the Anti-Ballistic Missile Treaty, has been critically important to nuclear arms reductions. Hopefully, there will be further reductions negotiated. Hopefully, the Duma will ratify START II. But it is important that we be aware of the fact that arms reductions, nuclear arms reductions, are very important in terms of reducing proliferation threats and very important in terms of the terrorist threat.

If we act in such a way that leads Russia to stop the reduction of the nuclear weapons on her soil, to stop the dismantling of the nuclear weapons on her soil, to stop negotiating further reductions in nuclear weapons, we are taking a very dangerous step in terms of our own security.

That is why the fourth point which our uniformed military has pointed to as being important, in terms of considering national missile defense deployment, is the effect of that deployment on nuclear arms reductions. Nobody is going to give Russia or any other country a veto over whether or not we deploy a national missile defense system. That issue has got to be resolved in terms of our own security. If it adds to our security, we should do it. If it diminishes our security, we should not.

But whether or not it adds to our security is dependent upon a number of factors. And one of those factors is the effect on the nuclear weapons reduction program on Russian soil. This has been pointed out at the highest level between President Clinton and President Yeltsin. In their Helsinki summit statement in March of 1997, they emphasized—and these are their words—''the importance of further reductions in strategic offensive arms'' and they recognized explicitly, in their words, ''the significance of the ABM Treaty for those objectives.''

Secretary Cohen, has recognized and stated the importance of that treaty between ourselves and Russia in terms of accomplishing these nuclear arms reduction objectives.

Sandy Berger, in a letter which he has addressed to us, has recognized and stated the importance of that treaty between ourselves and Russia in terms of reducing nuclear arms and the threat of proliferation to this country.

In his letter he said:

> The Administration strongly opposes S. 257 because it suggests that our decision on deploying this system should be based solely on a determination that the system is ''technologically possible.'' This unacceptably narrow definition would ignore other critical factors that the Administration believes must be addressed when it considers the deployment question in 2000. . . .

And then he went on to say:

> A decision regarding national missile defense deployment must also be addressed within the context of the ABM Treaty and our objectives for achieving future reductions in strategic offensive arms through START II and [START] III. The ABM Treaty remains a cornerstone of strategic stability, and Presidents Clinton and Yeltsin agree that it is of fundamental significance to achieving the elimination of thousands of strategic nuclear arms under these treaties.

What this amendment before us does is simply acknowledge the policy of the United States to seek continued negotiated reductions in Russian nuclear forces. That is all that it says. In that sense it is very straightforward, very direct. But it also, to me at least, and I think to many other Members of this body, acknowledges that we have a number of policy goals that we should be achieving.

One is the deployment of an effective national missile defense system to meet a threat—I believe that is a legitimate policy goal that Senator COCHRAN's bill sets forth—a policy to deploy a cost-effective, operationally effective national missile defense to meet a threat. We do not have that system yet. It is being developed as quickly as we possibly can.

Hopefully, someday we will have a cost-effective, operationally effective national missile defense system. And hopefully, we can take that step after negotiating modifications with the Russians to that treaty, so that we can proceed consistent with a cooperative relationship with the Russians and not in a confrontational way. If we cannot do it cooperatively and with an amendment to that treaty, and if our security interests indicate that we should do it because we have something operationally effective and cost effective, and the threat is there, then we should do it anyway.

But what the Landrieu language does is state a very important policy objective that I hope all of us share: to seek continued negotiated reductions in Russian nuclear forces. It is that straightforward. It is that important. I commend the Senator from Louisiana for framing an amendment in a way which hopefully will attract broad bipartisan support but at the same time makes a very important addition to this bill by setting forth, if this is adopted, two important policies of this Government.

Ms. LANDRIEU addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I thank the Chair.

Mr. President, I thank our ranking member, the Senator from Michigan, for his good work in this area. He is a national leader and has been outspoken on this issue. His guidance and counsel have been very important as we have worked through this very important piece of legislation. I thank him.

I also thank the Senator from Mississippi for his graciousness and being open to working out this bill—although simple, it is quite important and quite historic—and to make sure it is done in the right and appropriate way.

I am convinced, Mr. President, that if this amendment I have offered, on behalf of myself, Senator LEVIN, and some of my colleagues here and on the other side of the aisle, is adopted, it will enable us to vote in good faith and in good conscience for this bill, which I have said earlier I support but have some hesitation.

This amendment will make sure it is the policy that we have a national missile defense system capable to deploy, as soon as technologically possible, an effective system and one that also states, with this amendment, that while we are developing this we will continue to negotiate reductions in Russian nuclear forces. It is the policy, a joint policy. It makes this bill stronger and better. And it enables us to pass this bill that recognizes the threat is real, that the world has changed significantly.

The record is replete, as I have mentioned earlier in my remarks, with hostile neighbors to the United States, with the development of these weapons that could, in fact, now threaten parts of our homeland—Hawaii, for instance, which is why the distinguished Senators from Hawaii are supporting this

bill. And it is clear to many of us now that this threat is more real than ever before, so the need for this bill is important.

I think this amendment helps to strengthen the bill. It most certainly will enable several of us on this side of the aisle to vote for this bill and to pass it with bipartisan support and, I believe, with the administration's support.

I thank my distinguished ranking member. I thank the author and sponsor of this bill, and I yield back the remaining time I have.

I strongly urge my colleagues to give consideration to this amendment which will make a good bill even better.

Mr. HELMS. Mr. President, I am pleased to support the amendment of the able Senator from Louisiana (Ms. LANDRIEU) because I interpret that it refers to the policy of pursuing Russian ratification of the START II Treaty. Any proposed reduction below the START II level should, of course, be considered on its specific merits.

I commend Senator LANDRIEU for offering the amendment consistent with my interpretation stated above.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, as I indicated earlier, I support the amendment offered by the distinguished Senator from Louisiana and thank her for her contribution to strengthening the legislation. Like the statement of policy already contained in S. 257, this is a straightforward statement of an important national security goal.

The high levels of strategic forces deployed during the cold war are no longer necessary in today's vastly changed strategic environment. Already our two countries have reduced levels significantly through START I and will reduce them further under START II. Both policies articulated here, our determination to deploy a missile defense against limited threats and our continued interest in further offensive reductions, are in our interests. Of course, inclusion of both in this bill does not imply that one is contingent upon the other, but that is completely consistent with what we have been saying all along—that defensive and offensive reductions are not incompatible. I urge all Senators to support the amendment.

I also urge Senators, if they have other amendments, to let us know about them. I am hoping that we can get an agreement that would identify any other amendments and that we can have a time limit agreed upon with respect to those amendments. If there are no other amendments, it would be our expectation that we could go to third reading within a short period of time. Senators communicating that to the managers or their intentions to the managers would be appreciated very much so we could go forward with the expeditious handling and conclusion of the bill.

I yield back whatever time remains, and I ask for the yeas and nays on the amendment of the Senator from Louisiana.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, a brief 10 seconds. As I indicated earlier, I have been informed by the President's National Security Adviser that if this amendment is adopted, the recommendation to the President to veto this bill will be withdrawn. I think that is a very significant development and I think folks may want to consider that as part of the overall debate on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. FEINSTEIN) is absent because of illness.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 50 Leg.]

YEAS—99

Abraham	Enzi	Lugar
Akaka	Feingold	Mack
Allard	Fitzgerald	McCain
Ashcroft	Frist	McConnell
Baucus	Gorton	Mikulski
Bayh	Graham	Moynihan
Bennett	Gramm	Murkowski
Biden	Grams	Murray
Bingaman	Grassley	Nickles
Bond	Gregg	Reed
Boxer	Hagel	Reid
Breaux	Harkin	Robb
Brownback	Hatch	Roberts
Bryan	Helms	Rockefeller
Bunning	Hollings	Roth
Burns	Hutchinson	Santorum
Byrd	Hutchison	Sarbanes
Campbell	Inhofe	Schumer
Chafee	Inouye	Sessions
Cleland	Jeffords	Shelby
Cochran	Johnson	Smith (NH)
Collins	Kennedy	Smith (OR)
Conrad	Kerrey	Snowe
Coverdell	Kerry	Specter
Craig	Kohl	Stevens
Crapo	Kyl	Thomas
Daschle	Landrieu	Thompson
DeWine	Lautenberg	Thurmond
Dodd	Leahy	Torricelli
Domenici	Levin	Voinovich
Dorgan	Lieberman	Warner
Durbin	Lincoln	Wellstone
Edwards	Lott	Wyden

NOT VOTING—1

Feinstein

The amendment (No. 72) was agreed to.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. LEVIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, we understand that it is possible to reach an agreement on the identity of amendments that are yet to be offered to the bill. I will, on behalf of the leader, propound a unanimous consent request regarding the amendments that would be in order to the bill and a time agreement on each, in the hope that we can complete action on this bill tomorrow and have final passage. If we do get the agreement, we would then proceed to hear any further statements that Senators might have on the bill tonight. Senator ASHCROFT, I know, is here and available to speak on the bill, but there would be no further votes on amendments tonight.

UNANIMOUS-CONSENT AGREEMENT

Mr. COCHRAN. Mr. President, I ask unanimous consent that the following amendments be the only amendments remaining in order, that they be subject to first- and second-degree amendments where applicable, and they must be relevant to the first-degree they propose to amend.

I further ask that all first-degree amendments be limited to 1 hour, equally divided in the usual form for debate, and any second-degree amendments limited to 30 minutes in the usual form.

I further ask that following the disposition of the listed amendments, the bill be immediately advanced to third reading and passage occur, all without intervening action or debate, and that no motions be in order other than motions to table.

The list is as follows: a Bingaman amendment on operational success of system; Conrad amendment, space-based missile defense; Dorgan amendment on NMD deployment; a second Dorgan amendment on NMD deployment; Harkin amendment on study on relevant risks, and a second amendment on condition on relevant; Kerry amendment, relevant; a Levin amendment, relevant; a Robb amendment, relevant; and a Wellstone amendment, relevant.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Mr. President, we have no objection to that, and I believe that all of the Senators on this side of the aisle now are included. I wanted to make sure that they all understand there is, in addition to this list, a time agreement here, as the Senator from Mississippi has indicated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. COCHRAN. Mr. President, in light of this agreement limiting amendments, there will be no further votes this evening, and I thank all colleagues for their cooperation.

The PRESIDING OFFICER. The Senator from Missouri.

PRIVILEGE OF THE FLOOR

Mr. ASHCROFT. Mr. President, I ask unanimous consent that Stephanie Sharp of my staff be granted the privilege of the floor during the pendency of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, I rise today in strong support of S. 257, the

National Missile Defense Act of 1999. I commend the two principal sponsors of the bill, Senator COCHRAN and Senator INOUYE, for their commitment to this legislation and for their dedication to the national security of our country.

The fact that we are having a debate on this bill at all, in the sense of trying to overcome opposition to this legislation, is somewhat troubling to me. The foreign missile threat has come to our very door in the last 6 years, and yet the administration and many of my Democratic colleagues continue to oppose this legislation, which simply says we will defend the American people as soon as we can.

A recent poll shows that more than 85 percent of Americans favor the deployment of a missile defense system and that three out of every four Americans were surprised to learn that the United States cannot destroy an incoming ballistic missile. The American people would be even more surprised to learn that they remain defenseless today, not so much due to the cost or technological hurdles of missile defense as to a lack of political leadership here in Washington.

The administration's record on missile defense has been plagued with the same inconsistency and lack of foresight that is characteristic of our more general foreign policy over the last 6 years. In each of the critical areas that we are facing today in deploying a missile defense system—modifications of the Anti-Ballistic Missile Treaty, program management and budgeting, and the assessment of the missile threat—the administration is having to reverse astoundingly shortsighted policies adopted only a few years ago.

Secretary Albright has encountered firm resistance from Russia in modifying the Anti-Ballistic Missile Treaty, but Russia eagerly discussed possible modifications to the treaty in the Ross-Mamedov talks in 1992. To Russia's great surprise, one of the first things President Clinton did after coming to office was suspend this dialogue on modifying the ABM Treaty. Now, 6 years later, with a greatly altered diplomatic landscape, the window of opportunity for active Russian cooperation on modifying the treaty may be permanently closed. Regardless of one's views on the ABM Treaty, squandering opportunities such as the Ross-Mamedov dialogue is serious negligence.

The lack of foresight in program management and budgeting for missile defense also has undermined the development and deployment of an effective system. When President Clinton entered office in 1993, promising missile defense initiatives fostered under the Bush administration were limited or curtailed. Ambassador Hank Cooper, President Bush's Director of the Strategic Defense Initiative Organization, had a procurement program in place in 1992 for the first site of a ground-based missile defense system which potentially could have been deployed by the year 2000. This effort was suspended, and the budget for the national missile defense system was slashed by an astounding 71 percent in the first year of the Clinton administration.

Here is a chart which shows our commitment to missile defense. During the Reagan and Bush years, we saw a consistent and strong commitment to missile defense. In the years when the budgeting was under the control of this administration, we saw an astounding drop, a 71-percent drop in the funding to develop a national missile defense system.

Now, after 4 years of undermining the National Missile Defense Program, the administration is rushing to increase the funding levels because the threat can no longer be ignored or denied.

The administration has used faulty intelligence estimates of the foreign missile threat to justify a missile defense policy of delay and obfuscation. Based in part on a National Intelligence Estimate in 1995 that said the Continental United States would not face a new ballistic missile threat until 2010, the President vetoed the FY 1996 defense authorization bill because of language which called for the deployment of a missile defense system by the year 2003.

Now, 3 years after the President's veto, with North Korea and Iran developing ballistic missiles to strike the United States, with China modernizing its nuclear weapons, possibly with U.S. technology, and with the threat of accidental missile launch from Russia rising, 2003 is, if anything, too late to deploy a national missile defense system.

The administration has relied on faulty intelligence to our collective peril. North Korea's test of the Taepo Dong 1 in August of 1998 was the last nail in the coffin of the National Intelligence Estimate and a strong indictment of the administration's complacency in preparing for an imminent foreign missile threat. But the Taepo Dong test was a result of proliferation trends that have been detectable and discernible for over a decade.

We could see the threat coming as proliferation accelerated in the 1980s. We saw the threat arrive when the largest single loss of life of U.S. soldiers in the Gulf War occurred when an Iraqi ballistic missile killed 28 of our soldiers and wounded 89 more on February 25, 1991.

The threat was apparent by 1991, at the latest, and that is why the Senate passed the National Missile Defense Act that year as part of the Defense Authorization bill. The National Missile Defense Act was a strong piece of legislation calling for modifications to the Antiballistic Missile Treaty and calling for deployment of an effective missile defense system by a date certain, that date to be 1996.

Yet now, 8 years after passage of the National Missile Defense Act, 8 years in which two terrorist governments, Iran and North Korea, have come to the threshold of acquiring ICBM capability, this administration and many of my Democratic colleagues continue to oppose legislation which simply states that it is United States policy to defend the American people as soon as we can.

Winston Churchill once said, ''Occasionally you must take the enemy into consideration.'' This administration would be well advised to heed Mr. Churchill's words and to grasp the seriousness of the multiple missile threats posed to the United States.

At least 25 countries have or are pursuing weapons of mass destruction programs that could threaten not only their neighbors but the stability of this globe, and nearly all of those countries also have ballistic missiles of one kind or another. The technology is out there and is being proliferated at an alarming rate.

In spite of these rising missile threats to the United States, the administration continues to speak of the Antiballistic Missile Treaty as the cornerstone of strategic stability. Although the legal status of the treaty is in doubt after the dissolution of the Soviet Union, the accord continues to guide administration policies that have undermined the entire missile defense effort.

As William Graham, former science adviser to President Reagan, stated before the Senate Foreign Relations Committee:

> Not only has the ABM Treaty prohibited the deployment of national missile defenses, it has led to the prohibition of funding for the research and development on systems which might, if deployed, conflict with the ABM Treaty. Moreover, it has made Defense Department program managers unwilling even to propose missile defense systems and programs that might. . .be viewed as conflicting with the largely ambiguous details of the ABM Treaty. . . .

Mr. Graham's point is simply this: that the ABM Treaty has kept people in the administration from even exploring alternatives that might well defend the people of this country.

This administration's commitment to the ABM Treaty has precluded our best space-based options for national missile defense and limited the more advanced capabilities of our theater missile defense programs.

A host of critical missile defense initiatives under the Bush administration were derailed or downsized in 1993. Brilliant Eyes, now known as SBIRS Low, a satellite program to provide essential tracking capabilities for national missile defense, has seen its deployment delayed by as much as a decade.

Brilliant Pebbles, a system of hit-to-kill vehicles in low Earth orbit and still potentially the best national missile defense option, was canceled as a result of this administration's policies.

A space-based national missile defense system could best defend the American people. So why isn't it being pursued? Even President Clinton's current Director of the Ballistic Missile

Defense Organization, General Lester Lyles, stated before the Armed Services Committee last month:

I think all of us recognize that the optimum way to do missile defense, particularly in a robust manner in the future, is from space.

This is President Clinton's Director of the Ballistic Missile Defense Organization.

Space-based national missile defense systems have been shelved for one simple reason: this administration's commitment to the outdated and dangerous Antiballistic Missile Treaty.

If the administration is so concerned about the cost of missile defense, why is it expending precious missile defense dollars on the least effective systems, rather than the most effective ones acknowledged by the administration's own Director of the Ballistic Missile Defense Organization?

If the administration is so concerned about deploying a technologically sound missile defense system, why is a ground-based system that has the highest technological challenges the administration's only near-term missile defense initiative? As Ambassador Cooper testified before the Senate Foreign Relations Committee in September 1996, ground-based systems are the most expensive, least effective defense that will take the longest to build. The administration has cut the national missile defense budget and diverted those scarce funds into the least effective national missile defense programs.

All of this, because the administration refuses to relinquish its tight grip on the ABM Treaty.

Finally, the ABM Treaty is undermining the robustness of theater missile defense programs. For example, limiting the use of additional off-site radars for theater missile defense programs out of concerns for the ABM Treaty increases the cost of missile defense exponentially. Bill Graham, former science adviser to Presidents Reagan and Bush, states:

. . .the area that a surface-based interceptor system can defend using only its. . .radar is one-tenth the area that the same interceptor can defend using space-based sensing. Therefore, to defend the same area without space-based sensing, 10 times as many missile/radar systems would have to be deployed at a cost that would be approximately 10 times as much. . ..

So this persistent, dogged determination to honor an outdated treaty, the ABM Treaty, increases the cost of our theater missile defense systems tenfold, just to cover the same territory.

In almost every theater missile defense program we have, serious constraints have been imposed to try to limit the ICBM intercept capability of regional theater missile defense systems. Software and radar of the Navy Aegis cruisers have been constrained to limit their ability to track ballistic missiles. Software for THAAD has been constrained to limit its intercept capability. The ballistic missile intercept capability of the Patriot system was restrained until the urgency of the gulf war.

Ambassador Cooper stated before the Senate Foreign Relations Committee:

. . .the 28 military personnel killed when an Iraqi Scud hit their barracks during the Gulf War might have been spared if Patriot had not been dumbed-down and delayed because of ABM Treaty concerns.

It seems like the loss of life and the injury to dozens and dozens of others in that particular incident should have sounded a wakeup call sufficiently urgent to at least startle this administration into pursuing a course of action which would not be guided by an unwarranted commitment to the ABM Treaty.

In spite of the restrictions the Anti-Ballistic Missile Treaty imposes on U.S. missile defense efforts, the administration continues to view the accord as the cornerstone of strategic stability and essential for future arms control efforts. Although the past 27 years have demonstrated that the treaty probably accelerated the arms race rather than curtailed it, this administration remains committed to the idea that reductions in nuclear weapons cannot occur unless the American people are completely vulnerable to missile attack.

I want to say that again. This administration remains committed to the idea that reductions in nuclear weapons cannot occur unless the American people are completely vulnerable to missile attack. My view is that we deter aggression through strength, not through increasing our own vulnerability. To continue to risk American lives for thoroughly invalidated arms control policies is a serious abnegation of our duty to protect and defend the United States.

Administration officials seem mortified by the prospect that Russia will reject the START II treaty if the United States builds an effective missile defense. The administration seems to have forgotten however that the size of Russia's nuclear stockpile will continue to decline with or without another arms control agreement. The size of Russia's nuclear arsenal is in freefall thanks in large part to one American President who returned America to the tried and true principle that strength deters aggression.

Ronald Reagan knew that ''Nations do not mistrust each other because they are armed; they are armed because they mistrust each other.'' He confronted and deterred aggression, and although this administration would like the forget it, Ronald Reagan used ballistic missile defense to hasten the demise of the Soviet Union.

This particular graph shows the level of nuclear warheads maintained by the United States and the Soviet Union, later Russia, over the last several decades. The ABM Treaty was negotiated in 1972, and shortly after the ABM Treaty came into force, we see the levels of Soviet nuclear warheads begin to increase dramatically. This graph illustrates that America's weaknesses under the ABM Treaty was one factor behind the Soviet arms buildup, while Reagan's resolve to confront Soviet aggression, in part through the Strategic Defense Initiative—hastened the collapse of the Soviet Union. President Reagan used missile defense to deter Soviet aggression, and the dissolution of the Soviet empire led to the reductions in arms that always proved elusive to advocates of appeasement.

Reagan's success in confronting and undermining Soviet tyranny was one of the greatest contributions to freedom in modern history. As part of that broader policy, Reagan's commitment to missile defense is at once a telling indictment on the failed policies of the more recent past and a shining example of the courage needed to chart a course for the revitalized defense of the American people.

The legislation we are considering today simply says this: We will defend the American people against missile attack as soon as possible. How could there be opposition to this bill when every conflict we have fought in the past has proven that weakness and vulnerability invite aggression? We do not get a reduction in our vulnerability by remaining vulnerable. We get a reduction in our vulnerability by showing strength.

How could there be opposition to this bill when missiles from North Korea and Iran pose an imminent threat to the United States? How can there be opposition to this bill when China points the majority of its nuclear weapons at the United States and has implicitly threatened Los Angeles if American forces defend Taiwan?

Mr. President, the sad truth is that the United States is completely defenseless against a ballistic missile strike. George Washington once said, ''If we desire to avoid insult, we must be able to repel it. . .'' Why are North Korea and Iran pursuing advanced missile technology at breakneck speed? These terrorist governments are seeking the tools of aggression because they know that we cannot repel their attacks.

Our ambivalence and complacency in providing an effective missile defense for American citizens and for American interests is an unconscionable act of negligence. We should not shrink from or shirk the burden of eternal vigilance in the defense of freedom because the cost of missile defense is high or the technology is complicated or there will be difficulties to overcome in the development of a system.

As Franklin Roosevelt said in September 1941, ''Let us not ask ourselves whether the Americas should begin to defend themselves after the first attack, or the fifth attack, or the tenth attack, or the twentieth attack. The time for active defense is now.''

Mr. President, those words ring as true today as they did before World War II and reflect the commitment of the American people to safeguard the blessings of liberty. The defeatist policies which would leave America vulnerable to nuclear, chemical or biological

warheads have been followed for too long, to the great detriment of our country. We must return to the sound policies of an active defense system before a missile strike on U.S. soil eclipses the catastrophe of Pearl Harbor. We do not have another 6 years to waste, Mr. President. I applaud Senator COCHRAN and Senator INOUYE for their leadership on ballistic missile defense and I urge my colleagues in the Senate to pass this legislation.

Mr. SHELBY. Mr. President, I stand today in support of a very simple yet essential piece of legislation, the National Missile Defense Act of 1999. The bill states:

> It is the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack, whether that attack is accidental, unauthorized, or deliberate.

That is all the language does. Mr. President, this bill may concern rocket science but it does not take a rocket scientist to realize the inherent necessity of this legislation for the safety of this country.

Currently, our nation is defenseless against the threat of ballistic missile attack. Some have shrugged their shoulders and said, ''So what, America won the cold war without a missile defense. The Soviet Union never attacked us and no one else will either.'' Yet the fact that the United States won the cold war is the very reason that America faces a new and very real missile threat today.

The world is not as simple in 1999 as it was during the cold war. Today, a much less stable Russia still maintains an awesome nuclear arsenal. Communist China is developing into a superpower with interests which are frequently adverse to our own. That development includes a force of ballistic missiles capable of striking the continental United States. And as we have seen in recent weeks, China is persistent in its efforts to acquire the technology necessary to make its missiles more accurate and deadly.

Equally disturbing, today's threat includes the use of ballistic missiles by rogue nations and terrorist groups. The disintegration of the Soviet Union has exacerbated the proliferation of missile technology and lethal payloads. Iran and North Korea are developing and testing longer range missiles. Both countries are potential adversaries in regions vital to the national interest of the United States. Both countries have ties to international terrorist groups. With proliferation rampant, these two countries will surely not be the last to acquire long range missile technology. The failure to deploy an effective national missile defense system could subject this nation to diplomatic blackmail from any rogue state or terrorist group that can purchase or steal ballistic missile technology.

Some have argued, as does the administration, that this bill will disrupt ongoing negotiations with Russia concerning the Anti-Ballistic Missile Treaty. Mr. President, if that is the case, then so be it. The ABM Treaty was signed with the Soviet Union. That state no longer exists and as such the treaty should be declared void. A number of constitutional scholars have adopted this view. Nevertheless, if it is the policy of this administration to honor the treaty, that policy should not be permitted to impede the deployment of a missile defense system. The administration can negotiate enough flexibility into the treaty to permit a viable national missile defense.

Mr. President, the bill we are considering states that this nation will deploy a system when it is technologically feasible. That technology is being developed as we speak and is nearly at hand. However, I would urge my colleagues in the months and years ahead to continue investment in missile defense support technology. It is an important yet often overlooked investment. Under funding support technology today will jeopardize the future effectiveness of any missile defense system. Rapid changes in technology and potential development of missile defense countermeasures by our adversaries require that this nation maintain its technological superiority. That superiority does not come without a price. However the cost of losing our technological edge is one I hope this body never has to consider.

Mr. President, some well intentioned opponents of this bill have stated that treaties and superior intelligence gathering will protect us from a future ballistic missile attack. This is nothing more than a gamble with the lives of the American people. Treaties have been broken throughout history. Intelligence is effective only when properly interpreted and disseminated. Ask the men of the U.S.S. *Arizona* at the bottom of Pearl Harbor. Intelligence collection did them little good. Mr. President, I am not willing to gamble with the lives of the American people. I continue to strongly support the National Missile Defense Act of 1999 and I urge my colleagues to do the same.

Mr. KERREY. Mr. President, I rise today to offer my support for S. 257, the National Missile Defense Act currently pending before the Senate. I do so with the firm belief that passage of this legislation will help keep the American people safe. Given the seriousness of the threat posed by ballistic missiles, it is our duty to act to confront this threat through the development of a national missile defense system.

I believe some of the controversy surrounding this piece of legislation comes from the misperception of what national missile defense really is. Mr. President, we are not proposing to build a star wars-style system. We are not proposing to build a system designed to counter a massive nuclear attack from the Soviet Union. That plan was unworkable in the 1980s and is unnecessary today. Instead, the missile defense system we are talking about today is a limited system, designed to protect the United States from rogue-state ballistic missile launches and accidental launches—precisely the kind of threats that will not be countered by our traditional reliance on deterrence.

The truth is, Mr. President, we do not currently possess the ability to protect the American people from these threats. But we should. The legislation we are debating today would take the first step toward protecting the United States by declaring it to be the official policy of the United States to deploy a national missile defense system. The bill before us does not identify a particular system for deployment It does not authorize or appropriate a single dollar. These are decisions that will be left up to this and future Congresses. Instead, the National Missile Defense Act simply states that the United States should deploy a missile defense system to protect the American people.

Mr. President, perhaps the only situation worse than not having an adequate missile defense system to protect the American people, is deploying a system that has not been proven feasible. I am pleased with the recent announcement by the Clinton administration that they plan to increase spending on missile defense research by $6 billion over the next five years. I applaud the administration's decision to fund missile defense in the fiscal year 2000 Defense budget so that a decision to deploy a missile defense in 2005 could be made as early as June of next year. We should all take note of the outstanding scientific and engineering efforts which have been ongoing for years in the Defense Department to get us to this point. This administration deserves credit for vigorously attacking the very daunting set of scientific and engineering challenges by which a bullet can strike another bullet. At the same time, development of a system will only come through further research and development and a rigorous testing regime.

Many opponents of this legislation have asked why should we take this step now? It's true, the threat of ballistic missiles is not a new one. The American people have lived for decades under this threat. In fact, during the cold war, the Soviet Union had thousands of nuclear-tipped ballistic missiles pointed, ready to shoot at American cities. What has changed is the source of the ballistic missile threat. During the cold war, and even today, we used the power of deterrence to protect ourselves. Nations like Russia and China know that an attack on America would be met with an immediate and overwhelming response by United States forces. They were and still are deterred by a calculation of their own self-interest. However, the underlying assumption of deterrence is rational behavior by the other side. None of the

emerging threats—whether they be terrorist states or rouge or desperate individuals—can be counted on to respond rationally to the threat of retaliation.

In the past, I have voted against cloture on the motion to proceed to this bill. However, two distinct events over the last few months have highlighted the changed nature of the threat and have led me to support this legislation. First, the release of the Rumsfeld Commission Report last July stated that the newer ballistic missile threats are developing from countries like Iran, Iraq, and North Korea. The report went on to state that these nations could be able to acquire the capability to inflict major destruction on the United States within about 5 years of a decision to acquire ballistic missiles. Furthermore, the Rumsfeld Report warmed that these emerging threats had more mature capabilities than previous assessments has thought possible.

Then, almost on cue, North Korea tested the Taepo Dong I missile on August 31, 1998. The details of this test have been widely reported in the media. But the real lesson of this missile test was that our intelligence community was surprised by the North Koreans' ability to launch a three-stage missile. We saw that North Korea may have the ability to hit parts of the United States with a missile with a small payload. We also know that the North Koreans continue to work on the Taepo Dong II; an intercontinental missile with the capability of reaching the United States mainland. In addition, North Korea's nuclear capability and nuclear ambitions turn these missile developments into a clear strategic warning.

Mr. President, aside from demonstrating the validity of the conclusions of the Rumsfeld Report, the North Korean missile test put a face on the emerging ballistic missile threat. There may not be a more unpredictable regime on earth than that of Kim Jong II. A government which continues to pour resources into weapons of mass destruction while its people undergo a famine is beyond our understanding. But I have no doubt of North Korea's willingness to use ballistic missiles—in an all-out desperate act of terror—against United States cities. Traditional threats of massive retaliation are unlikely to deter a man as unstable as Kim Jong II. They will not likely deter the Iranian or Libyan governments or other future rogue states. Instead, we must protect our nation through a limited missile defense. Time remains for us to counter this threat. But we must act now.

Mr. President, opponents of this legislation have valid concerns about how national missile defense will affect our relationship with Russia. I share these concerns. Our long-term global interests are best secured by maintaining a cooperative relationship with Russia. While a wide variety of Russian political leaders have expressed their opposition to United States national missile defense, I do not believe Russian opposition is insurmountable.

Just as our allies like Britain and France realize United States national missile defense is not directed against them, the Russians can be convinced the threats we seek to counter through missile defense come from unauthorized and rouge-nation launches. Furthermore, these are threats—given their proximity to countries like Iraq, Iran, and North Kora—Russia must also confront. Although Russia has deployed an ABM system around Moscow, there is nothing particular about Russia that will make it impervious to these threats. Mr. President, in their vulnerability I see a chance to engage Russia; to work cooperatively to confront the mutual threat of ballistic missile proliferation. By jointly developing national missile defense with Russia, we will make our citizens safer and improve our bilateral relationship. Similarly, the problems presented by the ABM Treaty may in fact present opportunities. There is no reason why we can't work with Russia to adapt the ABM Treaty to reflect the changes that have occurred in the world since the treaty was signed in 1972. At that time, we could not anticipate the proliferation of ballistic missile technology we face today. By changing the treaty to allow each side to develop a limited missile defense system to protect from unauthorized or rogue launches, we can address the threat, maintain the treaty, and not upset the strategic balance ABM sought to create.

Mr. President, I see further opportunity to reduce the threat of ballistic missiles and make significant strides in our relationship with Russia. In the past, and again today, I call on the President to seize this opportunity to make a bold gesture to reduce the danger posed by United States and Russian strategic nuclear weapons. More than 6 years after the end of the cold war, both the United States and Russia maintain thousands of nuclear weapons on hair-trigger alert. My fear, Mr. President, is our maintenance of more weapons than we need to defend our interests is prompting Russia to keep more weapons than she is able to control.

I have proposed that the President, acting in his capacity as Commander in Chief, order the immediate elimination of U.S. strategic nuclear forces in excess of proposed START III levels. Such a bold gesture would give the Russians the security to act reciprocally. Russia not only wants to follow our lead in such reductions, it must. Russia's own Defense Minister recently said, publicly, that Russia is thinking of its long-term nuclear arsenal in terms of hundreds, not thousands. To help Russia accomplish these reductions, Congress must be prepared to provide funding through the Nunn-Lugar Cooperative Threat Reduction Program. We should spend whatever is necessary to help Russia dismantle and secure its nuclear arsenal. The best form of missile defense is helping Russia destroy its missiles.

Mr. President, my support for the bill before you comes from my belief that its passage will make Americans safer. The time to prepare for the emerging threat of ballistic missiles is today. The legislation before us sets us on the path to confront these threats in a real and manageable way. I strongly encourage my colleagues support for this legislation and I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

MORNING BUSINESS

Mr. COCHRAN. Mr. President, knowing of no other Senators seeking recognition on the bill, I now ask unanimous consent that the Senate proceed to a period of morning business, with Members permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, March 15, 1999, the federal debt stood at $5,634,976,613,497.51 (Five trillion, six hundred thirty-four billion, nine hundred seventy-six million, six hundred thirteen thousand, four hundred ninety-seven dollars and fifty-one cents).

Five years ago, March 15, 1994, the federal debt stood at $4,549,059,000,000 (Four trillion, five hundred forty-nine billion, fifty-nine million).

Ten years ago, March 15, 1989, the federal debt stood at $2,737,036,000,000 (Two trillion, seven hundred thirty-seven billion, thirty-six million).

Fifteen years ago, March 15, 1984, the federal debt stood at $1,465,029,000,000 (One trillion, four hundred sixty-five billion, twenty-nine million).

Twenty-five years ago, March 15, 1974, the federal debt stood at $471,094,000,000 (Four hundred seventy-one billion, ninety-four million) which reflects a debt increase of more than $5 trillion—$5,163,882,613,497.51 (Five trillion, one hundred sixty-three billion, eight hundred eighty-two million, six hundred thirteen thousand, four hundred ninety-seven dollars and fifty-one cents) during the past 25 years.

MESSAGES FROM THE HOUSE

At 10:47 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 808. An act to extend for 6 additional months the period for which chapter 12 of title 11, United States Code, is reenacted.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 28. Concurrent resolution expressing the sense of the Congress that the United States should introduce and make all efforts necessary to pass a resolution criticizing the People's Republic of China for its human rights abuses in China and Tibet at the annual meeting of the United Nations Commission on Human Rights.

H. Con. Res. 42. Concurrent resolution regarding the use of United States Armed Forces as part of a NATO peacekeeping operation implementing a Kosovo peace agreement.

The message further announced that pursuant to section 710(a)(2) of Public Law 105–277, the Minority Leader appoints the following individuals to the Parents Advisory Council on Youth Drug Abuse: Ms. Marilyn Bader of St. Louis, Missouri, for a one year term and Mr. J. Tracy Wiecking of Farmington, Missouri, for a two-year term.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 447. An act to deem as timely filed, and process for payment, the applications submitted by the Dodson School Districts for certain Impact Aid payments for fiscal year 1999.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

S. 609. An act to amend the Safe and Drug-Free Schools and Communities Act of 1994 to prevent the abuse of inhalants through programs under the Act, and for other purposes.

The following concurrent resolution was read and placed on the calendar:

H. Con. Res. 28. Concurrent resolution expressing the sense of the Congress that the United States should introduce and make all efforts necessary to pass a resolution criticizing the People's Republic of China for its human rights abuses in China and Tibet at the annual meeting of the United Nations Commission on Human Rights.

The following concurrent resolution was read and ordered placed on the calendar:

H. Con. Res. 42. Concurrent resolution regarding the use of United States Armed Forces as a part of a NATO peacekeeping operation implementing a Kosovo peace agreement.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on March 16, 1999, he had presented to the President of the United States, the following enrolled bill:

S. 447. An act to deem as timely filed, and process for payment, the applications submitted by the Dodson School Districts for certain Impact Aid payments for fiscal year 1999.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2190. A communication from the Secretary of Defense, transmitting, pursuant to law, the Department's report entitled ''The Security Situation in the Taiwan Strait''; to the Committee on Armed Services.

EC–2191. A communication from the Secretary of Energy, transmitting, pursuant to law, the Department's report on the Defense Nuclear Facilities Safety Board for calendar year 1998; to the Committee on Armed Services.

EC–2192. A communication from the Under Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, notice of licenses issued for the export of commercial communications satellites and related items; to the Committee on Armed Services.

EC–2193. A communication from the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the Department's report on pilot programs to improve cooperation with private sector entities for the performance of research and development functions; to the Committee on Armed Services.

EC–2194. A communication from the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the Military Traffic Management Command's report entitled ''Current DOD Demonstration Program to Improve the Quality of Personal Property Shipments of Armed Forces, Interim Progress Report''; to the Committee on Armed Services.

EC–2195. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, certification that the Future Years Defense Program fully funds the support costs associated with the Longbow Hellfire missile multiyear procurement program; to the Committee on Armed Services.

EC–2196. A communication from the Assistant Secretary of Defense for Health Affairs, transmitting, pursuant to law, a report on the Plan for Redesign of the Military Pharmacy System; to the Committee on Armed Services.

EC–2197. A communication from the Secretary of the Navy, transmitting, pursuant to law, certification that the Department has converted the Fisher House Trust Fund to a nonappropriated fund instrumentality; to the Committee on Armed Services.

EC–2198. A communication from the Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the Communications and Information functions at 11 Air Force Reserve Command bases; to the Committee on Armed Services.

EC–2199. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on government-wide spending to combat terrorism; to the Committee on Armed Services.

EC–2200. A communication from the Director of the Office of the Secretary of Defense, transmitting, pursuant to law, a report under the Federal Vacancies Reform Act regarding the position of Principal Deputy Assistant Secretary of Defense (Legislative Affairs); to the Committee on Armed Services.

EC–2201. A communication from the Alternate OSD Federal Register, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''CHAMPUS; Corporate Services Provider Class'' (RIN0721-AA27) received on March 5, 1999; to the Committee on Armed Services.

EC–2202. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Additional Disability or Death Due to Hospital Care, Medical or Surgical Treatment, Examination, or Training and Rehabilitation Services'' (RIN2900-AJ04) received on March 2, 1999; to the Committee on Veterans Affairs.

EC–2203. A communication from the Deputy General Counsel of the Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Business Loan Programs'' received on March 10, 1999; to the Committee on Small Business.

EC–2204. A communication from the Director of the Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Interim Designation of Acceptable Receipts for Employment Eligibility Verification'' (RIN1115–AE94) received on February 8, 1999; to the Committee on the Judiciary.

EC–2205. A communication from the Acting Assistant Secretary of Commerce and Acting Commissioner of Patents and Trademarks, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Consideration of Interocutory Rulings at Final Hearing in Interference Proceedings'' (RIN0651–AB03) received on March 11, 1999; to the Committee on the Judiciary.

EC–2206. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled ''Licensing, Financial Responsibility Requirements, and General Duties for Ocean Transportation Intermediaries'' (Docket 98–28) received on March 2, 1999; to the Committee on Commerce, Science, and Transportation.

EC–2207. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rocket Launches'' (I.D. 093097E) received on March 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC–2208. A communication from the Senior Attorney, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases'' (RIN2105–AC10) received on March 11, 1999; to the Committee on Commerce, Science, and Transportation.

EC–2209. A communication from the Secretary of Health and Human Services and the Attorney General, transmitting, pursuant to law, a report on the Health Care Fraud and Abuse Control Program for fiscal year 1998; to the Committee on Finance.

EC–2210. A communication from the Commissioner of Social Security, transmitting, a report entitled ''Social Security and Supplemental Security Income Disability Programs: Managing for Today, Planning for Tomorrow''; to the Committee on Finance.

EC–2211. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Trade or Business Expenses: Rentals'' (Rev. Rul. 99–14) received on March 11, 1999; to the Committee on Finance.

EC–2212. A communication from the Acting Assistant General Counsel for Regulatory Law, Office of Scientific and Technical Information, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Scientific and Technical Information Management'' (DOE O 241.1) received on March 11, 1999; to the Committee on Energy and Natural Resources.

EC–2213. A communication from the Acting Assistant General Counsel for Regulatory

Law, Office of Environment, Safety and Health, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Documentation for Work Smart Standards Applications: Characteristics and Considerations'' (DOE G 450.3–1) received on March 11, 1999; to the Committee on Energy and Natural Resources.

EC–2214. A communication from the Acting Assistant General Counsel for Regulatory Law, Office of Human Resources and Administration, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Contractor Human Resource Management Programs'' (DOE O 350.1 Chg 1) received on March 11, 1999; to the Committee on Energy and Natural Resources.

EC–2215. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Indiana Regulatory Program'' (SPATS No. IN-144-FOR) received on March 11, 1999; to the Committee on Energy and Natural Resources.

EC–2216. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of Area Weapons Effect Simulator systems to the United Kingdom; to the Committee on Foreign Relations.

EC–2217. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the texts of international agreements other than treaties entered into by the United States (99–19 to 99–31) received on March 10, 1999; to the Committee on Foreign Relations.

EC–2218. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Department's Annual Performance Plan for fiscal year 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2219. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on the 1993 Survey of Certified Commercial Applicators of Non-Agricultural Pesticides; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2220. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for 1998–99 Zante Currant Raisins'' (Docket FV99–989–3 IFR) received on March 11, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2221. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Noxious Weeds; Update of Weed Lists'' (Docket 98–063–2) received on March 11, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs:

Report to accompany the bill (S. 558) To Prevent the Shutdown of the Government at the Beginning of a Fiscal Year if a New Budget Is Not Yet Enacted (Rept. No. 106–15).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 278: A bill to direct the Secretary of the Interior to convey certain lands to the country of Rio Arriba, New Mexico (Rept. No. 106–16).

S. 293: A bill to direct the Secretaries of Agriculture and Interior and to convey certain lands in San Juan County, New Mexico, to San Juan College (Rept. No. 106–17).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KENNEDY (for himself, Mr. SPECTER, Mr. WYDEN, Mr. SCHUMER, Mr. SMITH of Oregon, Mr. DASCHLE, Mr. LEAHY, Mr. TORRICELLI, Mr. AKAKA, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BRYAN, Mr. CHAFEE, Mr. CLELAND, Mr. DODD, Mr. DURBIN, Mr. HARKIN, Mr. JEFFORDS, Mr. JOHNSON, Mr. KERREY, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, and Mr. WELLSTONE):

S. 622. A bill to enhance Federal enforcement of hate crimes, and for other purposes; to the Committee on the Judiciary.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 623. A bill to amend Public Law 89-108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 624. A bill to authorize construction of the Fort Peck Reservation Rural Water System in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY (for himself, Mr. TORRICELLI, Mr. BIDEN, and Mr. SESSIONS):

S. 625. A bill to amend title 11, United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. ROBERTS (for himself and Mr. BROWNBACK):

S. 626. A bill to provide from unfair interest and penalties on refunds retroactively ordered by the Federal Energy Regulatory Commission; to the Committee on Energy and Natural Resources.

By Mr. HUTCHINSON (for himself, Mr. BROWNBACK, Mr. BURNS, Mr. SMITH of New Hampshire, Mr. COVERDELL, Mr. MCCAIN, Mr. INHOFE, Mr. ASHCROFT, Mr. BUNNING, Mr. ALLARD, Mr. GRAMM, Mr. GORTON, Mr. DEWINE, Mr. GRAMS, Mr. BOND, Mr. DOMENICI, Mr. SESSIONS, Mr. HELMS, Mr. CRAIG, and Mr. CRAPO):

S. 627. A bill to terminate the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Ms. COLLINS, Mr. COCHRAN, Mr. CONRAD, Mr. WYDEN, and Mr. JEFFORDS):

S. 628. A bill to amend titles XVIII and XIX of the Social Security Act to expand and clarify the requirements regarding advance directives in order to ensure that an individual's health care decisions are compiled with, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. CRAIG):

S. 629. A bill to amend the Federal Crop Insurance Act and the Agricultural Market Transition Act to provide for a safety net to producers through cost of production crop insurance coverage, to improve procedures used to determine yields for crop insurance, to improve the noninsured crop assistance program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 630. A bill to provide for the preservation and sustainability for the family farm through the transfer of responsibility for operation and maintenance of the Flathead Irrigation Project, Montana; to the Committee on Energy and Natural Resources.

By Mr. DEWINE (for himself, Mr. BROWNBACK, Mr. BINGAMAN, Mr. INOUYE, Mr. LEVIN, Mr. HOLLINGS, and Mr. DURBIN):

S. 631. A bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements; to the Committee on Finance.

By Mr. DEWINE (for himself, Mr. ABRAHAM, Mr. CHAFEE, Mr. GRAHAM, Mr. BOND, Mr. DOMENICI, Mr. KENNEDY, Mr. DURBIN, Mr. BURNS, and Mr. DODD):

S. 632. A bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ASHCROFT:

S. 633. A bill to amend title II of the Social Security Act to require that investment decisions regarding the social security trust funds be made on the basis of the best interests of beneficiaries, and for other purposes; to the Committee on Finance.

By Mr. BROWNBACK (for himself, Mr. HARKIN, Mr. HELMS, Mr. MACK, Mr. ROBB, Mr. GORTON, Mr. KYL, and Mr. ROBERTS):

S. 634. A bill to suspend certain sanctions with respect to India and Pakistan; to the Committee on Foreign Relations.

By Mr. MACK (for himself, Mr. GRAMS, Mr. LIEBERMAN, and Mr. KYL):

S. 635. A bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment; to the Committee on Finance.

By Mr. REED:

S. 636. A bill to amend title XXVII of the Public Health Service Act and part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 to establish standards for the health quality improvement of children in managed care plans and other health plans; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER:

S. 637. A bill to amend title 18, United States Code, to regulate the transfer of firearms over the Internet, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself, Mr. LOTT, Mr. EDWARDS, Mr. HAGEL, Mr.

CLELAND, Mr. MCCAIN, Mr. HARKIN, Mr. KERRY, Mr. ROBB, Mr. REED, Mr. SMITH of New Hampshire, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. ASHCROFT, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BRYAN, Mr. BUNNING, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. CRAPO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. FRIST, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MACK, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. TORRICELLI, Mr. VOINOVICH, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN):

S. Res. 61. A resolution commending the Honorable J. Robert Kerrey, United States Senator from Nebraska, on the 30th anniversary of the events giving rise to his receiving the Medal of Honor; considered and agreed to.

By Mr. MACK (for himself, Mrs. FEINSTEIN, Mr. ABRAHAM, Mr. AKAKA, Mrs. BOXER, Mr. CLELAND, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. FITZGERALD, Mr. FRIST, Mr. GRASSLEY, Mr. GORTON, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. INOUYE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MURKOWSKI, Mrs. MURRAY, Mr. ROTH, Mr. SARBANES, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, and Mr. TORRICELLI):

S. Res. 62. A resolution proclaiming the month of January 1999 as ''National Cervical Health Month''; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself, Mr. LOTT, Mr. DASCHLE, Mr. SCHUMER, Mrs. BOXER, Mrs. FEINSTEIN, Mr. LEAHY, Mr. JOHNSON, Mr. HELMS, and Mr. BUNNING):

S. Res. 63. A resolution recognizing and honoring Joe DiMaggio; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. SPECTER, Mr. WYDEN, Mr. SCHUMER, Mr. SMITH of Oregon, Mr. DASCHLE, Mr. LEAHY, Mr. TORRICELLI, Mr. AKAKA, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BRYAN, Mr. CHAFEE, Mr. CLELAND, Mr. DODD, Mr. DURBIN, Mr. HARKIN, Mr. JEFFORDS, Mr. JOHNSON, Mr. KERREY, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, and Mr. WELLSTONE):

S. 622. A bill to enhance Federal enforcement of hate crimes, and for other purposes; to the Committee on the Judiciary.

THE HATE CRIMES PREVENTION ACT OF 1999

Mr. KENNEDY. Mr. President, it is a privilege to join Senator SPECTOR, Senator WYDEN, Senator SCHUMER, and Senator SMITH in introducing the Hate Crimes Prevention Act of 1999. This bill has the support of the Department of Justice, constitutional scholars, law enforcement officials, and many organizations with a long and distinguished history of involvement in combating hate crimes, including the Leadership Conference on Civil Rights, the Anti-Defamation League, the Human Rights Campaign, the National Gay and Lesbian Task Force, the National Organization for Women Legal Defense and Education Fund, the National Coalition Against Domestic Violence and The Consortium for Citizens with Disabilities Rights Task Force.

Congress has a responsibility to act this year to deal with the festering problem of hate crimes. The silence of Congress on this basic issue has been deafening, and it is unacceptable. We must stop acting like we don't care—that somehow this fundamental issue is just a state problem. It isn't. It's a national problem, and it's an outrage that Congress has been A.W.O.L.

Few crimes tear more deeply at the fabric of our society than hate crimes. These despicable acts injure the victim, the community, and the nation itself. The brutal murders in Texas, Wyoming, and most recently in Alabama have shocked the conscience of the nation. Sadly, these three crimes are only the tip of the hate crimes iceberg. We need to do more—much more—to combat them.

I'm convinced that if Congress acted today, and President Clinton signed our bill tomorrow, we'd have fewer hate crimes in all the days that follow.

Current federal laws are clearly inadequate. It's an embarrassment that we haven't already acted to close these glaring gaps in present law. For too long, the federal government has been forced to fight hate crimes with one hand tied behind its back.

Our bill does not undermine the role of the states in investigating and prosecuting hate crimes. States will continue to take the lead. But the full power of federal law should also be available to investigate, prosecute, and punish these crimes.

The Hate Crimes Prevention Act of 1999 addresses two serious deficiencies in the principal federal hate crimes statutes, 18 U.S.C. §245, which applies to hate crimes committed on the basis of race, color, religion, or national origin.

First, the statute requires the government to prove that the defendant committed an offense not only because of the victim's race, color, religion, or national origin, but also because of the victim's participation in one of six narrowly defined ''federally protected activities'' enumerated in the statute. These activities are: (A) enrolling in or attending a public school or public college; (B) participating in or enjoying a service, program, facility or activity provided or administered by any state or local government; (C) applying for or enjoying employment; (D) serving in a state court as a grand or petit juror; (E) traveling in or using a facility of interstate commerce; and (F) enjoying the goods or services of certain places of public accommodation.

Second, the statute provides no coverage for hate crimes based on the victim's sexual orientation, gender, or disability. Together, these limitations prevent the federal government from working with state and local law enforcement agencies in the investigation and prosecution of many of the most vicious hate crimes.

Our legislation amends 18 U.S.C. §245 to address each of these limitations. In cases involving racial, religious, or ethnic violence, the bill prohibits the intentional infliction of bodily injury without regard to the victim's participation in one of the six ''federally protected activities''. In cases involving hate crimes based on the victim's sexual orientation, gender, or disability, the bill prohibits the intentional infliction of bodily injury whenever the act has a nexus, as defined in the bill, to interstate commerce. These provisions will permit the federal government to work in partnership with state and local officials in the investigation and prosecution of hate crimes. I urge the Senate to act quickly on this important legislation, and I look forward to working with my colleagues to bring it to a vote. I ask unanimous consent that the bill and a more detailed description of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hate Crimes Prevention Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the incidence of violence motivated by the actual or perceived race, color, national origin, religion, sexual orientation, gender, or disability of the victim poses a serious national problem;

(2) such violence disrupts the tranquility and safety of communities and is deeply divisive;

(3) existing Federal law is inadequate to address this problem;

(4) such violence affects interstate commerce in many ways, including—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment or participating in other commercial activity;

(5) perpetrators cross State lines to commit such violence;

(6) instrumentalities of interstate commerce are used to facilitate the commission of such violence;

(7) such violence is committed using articles that have traveled in interstate commerce;

(8) violence motivated by bias that is a relic of slavery can constitute badges and incidents of slavery;

(9) although many State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias, Federal jurisdiction over certain violent crimes motivated by bias is necessary to supplement State and local jurisdiction and ensure that justice is achieved in each case;

(10) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes; and

(11) the problem of hate crime is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States and local jurisdictions.

SEC. 3. DEFINITION OF HATE CRIME.

In this Act, the term ''hate crime'' has the same meaning as in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

SEC. 4. PROHIBITION OF CERTAIN ACTS OF VIOLENCE.

Section 245 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c)(1) Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

''(A) shall be imprisoned not more than 10 years, or fined in accordance with this title, or both; and

''(B) shall be imprisoned for any term of years or for life, or fined in accordance with this title, or both if—

''(i) death results from the acts committed in violation of this paragraph; or

''(ii) the acts omitted in violation of this paragraph include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(2)(A) Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive device, attempts to cause bodily injury to any person, because of the actual or perceived religion, gender, sexual orientation, or disability of any person—

''(i) shall be imprisoned not more than 10 years, or fined in accordance with this title, or both; and

''(ii) shall be imprisoned for any term of years or for life, or fined in accordance with this title, or both, if—

''(I) death results from the acts committed in violation of this paragraph; or

''(II) the acts committed in violation of this paragraph include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(B) For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

''(i) in connection with the offense, the defendant or the victim travels in interstate or foreign commerce, uses a facility or instrumentality of interstate or foreign commerce, or engages in any activity affecting interstate or foreign commerce; or

''(ii) the offense is in or affects interstate or foreign commerce.''.

SEC. 5. DUTIES OF FEDERAL SENTENCING COMMISSION.

(a) AMENDMENT OF FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall study the issue of adult recruitment of juveniles to commit hate crimes and shall, if appropriate, amend the Federal sentencing guidelines to provide sentencing enhancements (in addition to the sentencing enhancement provided for the use of a minor during the commission of an offense) for adult defendants who recruit juveniles to assist in the commission of hate crimes.

(b) CONSISTENCY WITH OTHER GUIDELINES.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishments for substantially the same offense.

SEC. 6. GRANT PROGRAM.

(a) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall make grants, in accordance with such regulations as the Attorney General may prescribe, to State and local programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in investigating, prosecuting, and preventing hate crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 7. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2000, 2001 and 2002 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 245 of title 18, United States Code (as amended by this Act).

SEC. 8. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SUMMARY OF THE HATE CRIMES PREVENTION ACT OF 1999

The Hate Crimes Prevention Act of 1999 creates a three-tiered system for the federal prosecution of hate crimes under 18 U.S.C. §245, as follows:

1. The bill leaves 18 U.S.C. §245(b)(2) unchanged. That provision prohibits the intentional interference, or attempted interference, with a person's participation in one of six specifically enumerated ''federally protected activities'' on the basis of the person's race, color, religion, or national origin. These activities are: (A) enrolling in or attending a public school or public college; (B) participating in or enjoying a service, program, facility or activity provided or administered by any state or local government; (C) applying for or enjoying employment; (D) serving in a state court as a grand or petit juror; (E) traveling in or using a facility of interstate commerce; and (F) enjoying the goods or services of certain places of public accommodation.

2. The bill adds a new provision, 18 U.S.C. §245(c)(1), which prohibits the intentional infliction of bodily injury on the basis of race, color, religion, or national origin. This new provision does not require a showing that the defendant committed the offense because of the victim's participation in a federally protected activity. However, an offense under the new 18 U.S.C. §245(c)(1) will be prosecuted as a felony only, and a showing of bodily injury or death or of an attempt to cause bodily injury or death through the use of fire, a firearm, or an explosive device is required. Other attempts will not constitute offenses under this section.

3. The bill adds another new provision, 18 U.S.C. §245(c)(2), which prohibits the intentional infliction of bodily injury or death (or an attempt to inflict bodily injury or death) through the use of fire, a firearm, or an explosive device on the basis of religion, gender, sexual orientation, or disability. Like 18 U.S.C. §245(c)(1), this provision authorizes the prosecution of felonies only, and excludes most attempts, while omitting the ''federally protected activity'' requirement. Unlike 18 U.S.C. §245(c)(1), this provision requires proof of a Commerce Clause nexus as an element of the offense.

4. For prosecutions under both of the new provisions, a certification by the Attorney General or other senior Justice Department official that ''a prosecution by the United States is in the public interest and necessary to secure substantial justice.''

FEDERALIZATION

It is expected that the Hate Crimes Prevention Act of 1999 will result in only a modest increase in the number of hate crimes prosecutions brought by the federal government. The intent is to ensure that the federal government will limit its prosecutions of hate crimes to cases that implicate the greatest federal interest and present a clear need for federal intervention. The Act is not intended, for example, to federalize all rapes or all acts of domestic violence.

The bill requires a nexus to interstate commerce for hate crimes based on sexual orientation, gender, or disability. This requirement, which the government must prove beyond a reasonable doubt as an element of the offense, will limit federal jurisdiction in these categories to cases that involve clear federal interests.

The bill excludes misdemeanors and limits federal hate crimes based on sexual orientation, gender, or disability to those involving bodily injury or death (and a limited set of attempts to cause bodily injury or death). These limitations will limit federal cases to truly serious offenses.

18 U.S.C. §245 already requires a written certification by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or a specially designated Assistant Attorney General that ''a prosecution by the United States is in the public interest and necessary to secure substantial justice.'' This requirement will apply to the new crimes in the Act.

EXISTING FEDERAL LAW AND THE NEED FOR EXPANDED JURISDICTION

1. The ''Federally Protected Activity'' requirement of 18 U.S.C. §245(b)(2)

18 U.S.C. §245(b)(2) has been the principal federal hate crimes statute for many years.

It prohibits the use of force, or threat of force, to injure, intimidate, or interfere with (or to attempt to injure, intimidate, or interfere with) ''any person because of his race, color, religion, or national origin'' and because of his participation in any of six ''federally protected activities'' specifically enumerated in the statute. The six enumerated ''federally protected activities'' are: (A) enrolling in or attending a public school or public college; (B) participating in or enjoying a service, program, facility or activity provided or administered by any state or local government; (C) applying for or enjoying employment; (D) serving in a state court as a grand or petit juror; (E) traveling in or using a facility of interstate commerce; and (F) enjoying the goods or services of certain places of public accommodation.

Federal jurisdiction exists under 18 U.S.C. §245(b)(2) only if a crime motivated by racial, ethnic, or religious hatred has been committed with the intent to interfere with the victim's participation in one or more of the six federally protected activities. Even in the most blatant cases of racial, ethnic, or religious violence, no federal jurisdiction exists under this section unless the federally protected activity requirement is satisfied. This requirement has limited the ability of federal law enforcement officials to work with state and local officials in the investigation and prosecution of many incidents of brutal, hate-motivated violence and has led to acquittals in several cases in which the Department of Justice has found a need to assert federal jurisdiction.

The most important benefit of concurrent state and federal criminal jurisdiction is the ability of state and federal law enforcement officials to work together as partners in the investigation and prosecution of serious hate crimes. When federal jurisdiction has existed in the limited contexts authorized by 18 U.S.C. §245(b)(2), the federal government's resources, forensic expertise, and experience in the identification and proof of hate-based motivations often have provided a valuable investigative assistance to local investigators. By working cooperatively, state and federal law enforcement officials have the best chance of bringing the perpetrators of hate crimes swiftly to justice.

The work of the National Church Arson Task Force is a useful precedent. Created in 1996 to address the rash of church arsons across the country, the Task Force's federal prosecutors and investigators from ATF and the FBI have collaborated with state and local officials in the investigation of every church arson since then. The results of these state-federal partnerships have been impressive. Thirty-four percent of the joint state-federal church arson investigations conducted by the Task Force resulted in arrests of one or more suspects on state or federal charges. This arrest rate is more than double the normal 16 percent arrest rate in all arson cases nationwide, most of which are investigated by local officials without federal assistance. More than 80 percent of the suspects in joint state-federal church arson investigations by the Task Force have been prosecuted in state court under state law.

2. Violent hate crimes based on sexual orientation, gender, or disability

Current federal law does not prohibit hate crimes based on the victim's sexual orientation, gender, or disability.

a. Sexual Orientation

Statistics gathered by the federal government and private organizations indicate that a significant number of hate crimes based on the sexual orientation of the victim are committed every year in the United States. Data collected by the FBI pursuant to the Hate Crimes Statistics Act indicate that 1,102 bias incidents based on the sexual orientation of the victim were reported to local law enforcement agencies in 1997; that 1,256 such incidents were reported in 1996; and 1,019 and 677 such incidents were reported in 1995 and 1994, respectively. The National Coalition of Anti-Violence Programs (NCAVP), a private organization that tracks bias incidents based on sexual orientation, reported 2,445 such incidents in 1997; 2,529 in 1996; 2,395 in 1995; and 2,064 in 1994.

Even the higher statistics reported by NCAVP may significantly understate the number of hate crimes based on sexual orientation actually committed in this country. Many victims of anti-lesbian and anti-gay incidents do not report the crimes to local law enforcement officials because they fear a hostile response or mistreatment. According to the NCAVP survey, 12% of those who reported hate crimes based on sexual orientation to the police in 1996 stated that the police response was verbally or physically abusive.

b. Gender

Although acts of violence committed against women traditionally have been viewed as ''personal attacks'' rather than as hate crimes, a significant number of women are exposed to terror, brutality, serious injury, and even death because of their gender. In the enactment of the Violence Against Women Act (VAWA) in 1994, Congress recognized that some violent assaults committed against women are bias crimes rather than mere ''random'' attacks. The Senate Report on VAWA, which created a federal civil cause of action for victims of gender-based hate crimes, stated: ''The Violence Against Women Act aims to consider gender-motivated bias crimes as seriously as other bias crimes. Whether the attack is motivated by racial bias, ethnic bias, or gender bias, the results are often the same. The victims are reduced to symbols of hatred; they are chosen not because of who they are as individuals but because of their class status. The violence not only wounds physically, it degrades and terrorizes, instilling fear and inhibiting the lives of all those similarly situated. 'Placing this violence in the context of the civil rights laws recognizes it for what it is—a hate crime.'' Senate Repot No. 103–138 (1993) (quoting testimony of Prof. Burt Neuborne.)

The majority of states do not specifically prohibit gender-based hate crimes. All 50 states have statutes prohibiting rape and other crimes typically committed against women, but only 17 states have hate crimes statutes that include gender among the categories of prohibited bias motives.

The federal government should have jurisdiction to work with state and local law enforcement officials in the investigation of violent gender-based hate crimes and, where appropriate in rare circumstances, to bring federal prosecutions to vindicate the strong federal interest in combating the serious gender-based hate crimes of violence.

Enactment of the Hate Crimes Prevention Act will not result in the federalization of all rapes, other sexual assaults, or acts of domestic violence. The intent is to ensure that the federal government's investigations and prosecutions of gender-based hate crimes will be strictly limited to the most flagrant cases.

c. Disability

Congress has shown a consistent commitment over the past decade to the protection of persons with disabilities from discrimination. In amendments to the Fair Housing Act in 1988, and the Americans With Disabilities Act in 1990, Congress extended protections to persons with disabilities in many traditional civil rights contexts.

The Hate Crimes Prevention Act is a measured response to a critical problem facing the Nation. It will make the federal government a full partner in the battle against hate crimes. In recognition of State and local efforts, the Act also provides grants to states and local governments to combat hate crimes, including programs to train local law enforcement officers in investigating, prosecuting and preventing hate crimes.

● Mr. WYDEN. Mr. President, the legislation I am proud to be a principal cosponsor of again today is a referendum on whether Congress will tolerate acts born out of prejudice. Every hate-filled attack, whether the target is a young gay man in Alabama or Wyoming or an African American man in Jasper, Texas, is an attack on all Americans. We must not allow such acts to stain our national greatness.

Our nation is committed to the ideal that all men and women are created equal, and protected equally in the eyes of the law. But some people aren't getting the message. It is high time to drive that message home.

The 1999 Hate Crimes Prevention Act will put bigots and racists on notice: hate and bigotry will not be tolerated in America.

This bill will close the loopholes in the current hate crimes laws. Right now, there's a patchwork of hate crimes laws in states across the country. This bill will provide a unified, Federal approach in how to deal with these despicable crimes.

It puts an end to the double standard where Federal authorities can help states and localities prosecute crimes motivated by ethnicity, religion, race, and color, but not those motivated by gender, disability, or sexual orientation. This bill would finally extend federal hate crime laws to cover attacks against women, gays and lesbians, people with disabilities.

It also removes the current straightjacket on local law enforcement seeking Federal help to prosecute hate crimes. Current law targets hate crimes that are committed against victims who are performing a federally protected act, like voting, or eating in a restaurant. But a hate crime is a hate crime, regardless of what the victims are doing when they're attacked.

With this legislation, we could prosecute under Federal law the thugs who murdered James Byrd, Matthew Shepard, and Billy Jack Gaither, as well as other victims.

No one is suggesting that the Federal government should override local law enforcement authorities. This bill will complement, not supplant, the work of local law enforcement in investigating and prosecuting hate crimes. It gives these local authorities more tools in prosecuting these crimes. If they need assistance in prosecuting a hate crime, then Federal authorities would be available to assist them—to make sure that justice is served.

Of course, no legislation can ever make up for the loss of any victim of a hate crime. But we can honor their memories by doing our best to make

sure that crimes like these never happen again.●

Mr. LEAHY. Mr. President, I again urge prompt consideration and passage of Hate Crimes Prevention Act. I cosponsored this measure in the last Congress and do so again this year. This bill would amend the federal hate crimes statute to make it easier for federal law enforcement officials to investigate and prosecute cases of racial and religious violence. It would also focus the attention and resources of the federal government on the problem of hate crimes committed against people because of their sexual preference, gender, or disability.

As the Ranking Member of the Judiciary Committee, I look forward to working on hearings next month on this important initiative. Violent crime motivated by prejudice demands attention from all of us. It is not a new problem, but recent incidents of hate crimes have shocked the American conscience. The beating death of Matthew Shepard in Wyoming was one of those crimes; the dragging death of James Byrd in Texas was another. The recent murder of Billy Jack Gaither in Alabama appears to be yet another. These are sensational crimes, the ones that focus public attention. But there is a toll we are paying each year in other hate crimes that find less notoriety, but with no less suffering for the victims and their families.

It remains painfully clear that we as a nation still have serious work to do in protecting all Americans and ensuring equal rights for all our citizens. The answer to hate and bigotry must ultimately be found in increased respect and tolerance. But strengthening our federal hate crimes legislation is a step in the right direction. Bigotry and hatred are corrosive elements in any society, but especially in a country as diverse and open as ours. We need to make clear that a bigoted attack on one or some of us diminishes each of us, and it diminishes our nation. As a nation, we must say loudly and clearly that we will defend ourselves against such violence.

All Americans have the right to live, travel and gather where they choose. In the past we have responded as a nation to deter and to punish violent denials of civil rights. We have enacted federal laws to protect the civil rights of all of our citizens for more than 100 years. This continues that great and honorable tradition.

Several of us come to this issue with backgrounds in local law enforcement. We support local law enforcement and work for initiatives that assist law enforcement. It is in that vein that I support the Hate Crimes Prevention Act, which has received strong bipartisan support from state and local law enforcement organizations across the country.

When the Committee takes up the issue of hate crimes next month, one of the questions that must be addressed is whether the bill as drafted is sufficiently respectful of state and local law enforcement interests. I welcome such questions and believe that Congress should think carefully before federalizing prohibitions that already exist at the state level.

To my mind, there is nothing questionable about the notion that hate crimes warrant federal attention. As evidenced by the national outrage at the Byrd, Shepard, and Gaither murders, hate crimes have a broader and more injurious impact on our national society than ordinary street crimes. The 1991 murder in the Crown Heights section of Brooklyn, New York, of an Hasidic Jew, Yankel Rosenbaum, by a youth later tried federally for violation of the hate crime law, showed that hate crimes may lead to civil unrest and even riots. This heightens the federal interest in such cases, warranting enhanced federal penalties, particularly if the state declines the case or does not adequately investigate or prosecute it.

Beyond this, hate crimes may be committed by multiple offenders who belong to hate groups that operate across state lines. Criminal activity with substantial multi-state or international aspects raises federal interests and warrants federal enforcement attention.

Current law already provides some measure of protection against excessive federalization by requiring the Attorney General to certify all prosecutions under the hate crimes statute as being ''in the public interest and necessary to secure substantial justice.'' We should be confident that this provision is sufficient to ensure restraint at the federal level under the broader hate crimes legislation that we introduce today. I look forward to examining that issue and considering ways to guard against unwarranted federal intrusions under this legislation. In the end, we should work on a bipartisan basis to ensure that the Hate Crimes Prevention Act operates as intended, strengthening federal jurisdiction over hate crimes as a back-up, but not a substitute, for state and local law enforcement.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 623. A bill to amend Public Law 89–108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes; to the Committee on Environment and Public Works.

DAKOTA WATER RESOURCES ACT OF 1999

Mr. CONRAD. I rise today to introduce the Dakota Water Resources Act of 1999, as cosponsored by my colleague, Senator DORGAN. Our colleague, Congressman POMEROY, is introducing identical legislation in the House of Representatives today.

Mr. President, the Dakota Water Resources Act represents a fiscally responsible, environmentally sound, treaty-compliant approach to completing the Garrison project. The U.S. Senate is well aware of the history of failed promises on water development projects on the Missouri River. The 1944 Flood Control Act authorized six main-stem dams along the Missouri River. These structures flooded about 550,000 acres of land in North Dakota. These were prime agricultural lands that were flooded. We were promised that we would get certain things in return for the loss of these lands. We were promised that we would get a major water project for the State of North Dakota. Unfortunately, only part of that promise has been kept.

You can see here the kinds of things that have happened. This is the town of Elbowoods, July 7, 1954. This town is now under water. It is not the only town that is under water. Town after town along the Missouri was flooded in order to give protection to downstream States, to remove from them the flood threat that so long had devastated them economically.

We accepted the permanent flood, a flood that came and has never gone. That flood has cost our State tremendously. All we are asking is that the promise that was made to us in exchange for flooding these 550,000 acres now be kept.

Mr. President, the Dakota Water Resources Act would assure North Dakota an adequate supply of quality water for municipal, rural, and industrial purposes. In fact, without these amendments, many communities in North Dakota will be forced to be without clean and reliable water supplies.

I think you can see these two jars. This is water that is delivered to rural North Dakotans via a pipeline. It is clean. It is healthy. It is wholesome.

This is the typical water supply for rural North Dakotans. It looks like coffee or dark tea. This is actually what comes out when you turn on your spigot in the homes of many of the people in rural North Dakota. This is like living in the Third World. I tell my colleagues, there is nothing quite like getting ready to step into a bathtub of water when it looks like this; even worse, to have your child getting ready to step into a bathtub of water that looks like this. This is absolutely at the heart of what we are trying to accomplish with the Dakota Water Resources Act, to provide clean, healthy supplies of water to our population.

Mr. President, water development is essential for economic development, agriculture, recreation and improving the environment. The legislation that we are offering today will provide an adequate and dependable water supply throughout North Dakota, including communities in the Red River Valley.

This picture shows what we have faced in the past. This is 1910. This is the Red River, the famous Red River of the North. You could have walked

across this river. You can see, at that point it was nothing more than a few puddles. It had virtually dried up. Now, since that time we have had major cities spring up, and we can't face a circumstance in which those towns would be high and dry. Fargo, ND—I think many people have heard of Fargo, ND—Grand Forks, ND; they are on the Red River. They depend, for their water supplies, on the Red River. Yet periodically in history the Red River all but dries up. We need to make certain that there is ample supplies of water so that we aren't facing that circumstance.

The bill that we are offering today is addressing the current water needs of our State. Those needs are significantly different than what we faced in 1944.

Let me briefly summarize the bill. It provides $300 million for statewide MR&I projects. It provides $200 million for tribal MR&I projects—in many cases, the water conditions on our reservations are even worse than the ones that I have shown that pertain in much of rural North Dakota—$200 million to deliver water to the Red River Valley to make certain that those towns and cities have reliable and adequate supplies of water; $40 million to replace the dangerous Four Bears Bridge that was required because of flooding that occurred, a bridge was built—that bridge is now badly out of date and dangerous—$25 million for a natural resources trust fund; $6.5 million for recreation projects; and an understanding that the State pays for the project facilities that it uses. We think that is a fundamental principle that ought to be recognized.

Those are the key elements of the bill that we are offering. Let me say, this bill is friendly to taxpayers as well, because our bill, while proposing $770 million of new authority to complete the project, deauthorizes many parts of the project that were previously authorized. The total project cost of the Dakota Water Resources Act would be roughly $1.5 billion, nearly $500 million less than the current cost of constructing the remainder of the 1986 project that is already authorized. In other words, we are trading in parts of the project that no longer make the most sense in exchange for new elements which do make sense, and we are doing it in a way that is cost-effective for the taxpayers, reducing the overall bill by $500 million.

Now, there are some, representing certain national environmental organizations that will remain unnamed here, who have said that this is nearly a billion dollars of new spending. They aren't telling the truth. That is not the truth. We are reducing the spending by deauthorizing certain features previously authorized in exchange for new ones, less costly ones that make sense in light of contemporary needs.

Mr. President, North Dakota has been waiting a long time, a long time for the promise to be kept to our State. It is desperately needed.

Mr. President, this legislation represents a fiscally responsible, environmentally sound, treaty-compliant approach to completing the Garrison Project that was promised in North Dakota. I look forward to continuing to work with Members of this body and the other body and the administration to advance this legislation.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I am happy to join my colleague, Senator CONRAD, on the introduction of the Dakota Water Resources Act of 1999. We have previously introduced similar legislation.

We worked on this legislation with the Governor of North Dakota, as well as the bi-partisan leadership in the State legislature in North Dakota, Tribal leaders, and many others. Republicans and Democrats together developed a piece of legislation that we think is not only good for our State and important for the State's long-term future, but which also completes the promise that was given our State many, many years ago.

I will not talk about the specific provisions of the bill in a way that will duplicate information which has already been provided, but let me again describe the story, just for a moment. People say, Water projects—this is some kind of proposal to enrich your region of the country. Well, there is more to the story.

In the 1940s, we had a wild Missouri River that would periodically flood in a very significant way, and in the downstream reaches of the river, Kansas City, MO, and elsewhere, areas would have massive spring flooding. The Federal Government said, Let's put some main stem dams on the Missouri River in order to control that flooding. As we put these dams on that river, we will also be able to generate electricity from those dams, so we will prevent flooding and provide electrical benefits. It will be a wonderful opportunity.

North Dakota, your deal in this is to accept a flood that comes and stays every year. You take a half-million-acre flood that comes to your State and stays there forever. If you are willing to play host to a flood forever, we will make you a deal. We know it is not in your interest to say, please, bring us a permanent flood, so if you do that, we will make you a deal. Accept a flood—the size of the State of Rhode Island, by the way—and when that flood comes, you can take the water from behind the reservoir and move it around your State for water development and quality purposes.

That was the original Garrison proposal. Now, that promise, that commitment has not been kept. The flood came; that part of the bargain has been kept. But we have not received the full flower of benefits that we would expect as a result of the Federal commitment. For that reason, we continue to insist that if your word is your bond and the Federal Government said take this flood and we will provide these benefits for your State, and we need these benefits for our State to be able to move good quality water around our State, for that reason we feel compelled to say to the Federal Government, finish the job.

That is what this legislation is about. It is not, as some environmental organizations insist, some new billion-dollar project. It is not that at all. In fact, what we are doing will, in a minor way, reduce the authorized project that already exists as a result of the 1965 authorization and the 1986 authorization. This bill makes the final adjustments to this project.

I have a series of charts which I will not go through, recognizing that the folks who are in charge of the timing of this institution want to go to lunch. Let me come back at a more appropriate time and go through all of my charts in great detail for the benefit of everyone.

I will only say in closing that my colleague and I feel that this is a very important project and a bipartisan piece of legislation that will be good for this country, allow our country to keep its promise and will especially be a good investment for North Dakota. My prepared remarks on the Dakota Water Resources Act will explain these points in greater detail.

Mr. President, the new bill has been substantially modified in the form of a substitute amendment (No. 3112) which we introduced on July 9, 1998. This revised bill represents a bi-partisan consensus carefully negotiated by the major elected officials in our State.

It's a water development bill that I am proud to sponsor. It reduces Federal costs, meets environmental and international obligations, and fulfills the Federal promise to address North Dakota's contemporary water needs.

This is still among the most important pieces of legislation I will introduce for my State. I emphasize once more that this is because the key to North Dakota's economic development is water resource management and development. And the key to water development in my State has come to be the Garrison Diversion Project in the Dakota Water Resources Act of 1999.

I want to share with my colleagues in greater detail the frustrating story of an unfulfilled promise to build a water project because some have questioned the rationale for the project. I want to explain why the people of North Dakota need and expect to have this promise fulfilled in the form of the Dakota Water Resources Act.

Over 100 years ago, John Wesley Powell of the U.S. Geological Survey predicted to the North Dakota Constitutional Convention that the lean years in agriculture would cause ''thousands of people . . . (to) become discouraged and leave.'' He was referring to the difficulty of making a living on farms and ranches in a state with abundant water but limited rainfall.

Unfortunately, Powell's prediction is as telling today as it was in the last century. Thousands of North Dakotans are leaving the State for economic opportunities in cities such as Denver and Minneapolis. Due to this substantial out-migration only 7 North Dakota counties, or less than one in seven, had population increases in the past decade. What perhaps worries me even more is the fact that our farm youth population has declined by 50% in both of the last two decades. In other words, out-migration is pummeling our State's well-being and threatening our economic future.

I would say to my colleagues that the root of the North Dakota's problem is two-fold. One, we need to diversify our agricultural base so that family farmers can make a more dependable living. This requires access to water for the growth and processing of specialty crops to replace or augment the usual grains that North Dakota farmers have grown for decades. Second, we must provide reliable supplies of clean, affordable water needed for economic growth in towns and cities across North Dakota. Too many of them now lack dependable water supplies for municipal and industrial growth.

What we need, then, is water development. And we thought we would get it!

Over fifty years ago, the Federal Government began building a series of main stem dams on the Missouri River to provide flood protection, dependable river navigation and inexpensive hydropower—primarily for the benefit of states in the Lower Missouri Basin. The problem became acute when flooding during World War II disrupted the transport of war supplies and spawned disaster relief needs in a budget already over-stretched.

When North Dakota allowed the Garrison Dam and Reservoir to be built in the State (and the consequences of the Oahe Reservoir in South Dakota are added in), it agreed to host permanent floods that inundated 500,000 acres of prime farm land and the Indian communities on two reservations. The State and Tribes did so in exchange for a promise that the Federal Government would replace the loss of these economic and social assets with a major water development project, the Garrison Diversion Unit.

But 50 years later, the project is less than half done.

I would like to explain for the benefit of my colleagues just how this bill relates to the Federal commitment to my State, what progress has been made on that commitment, what remains to be done, and how this bill will complete the project in a prudent way.

May I remind my colleagues that the State lost a half million acres of prime farm land, a major component of its overall economic base. To grasp the size of this negative impact, I ask my colleagues to think of flooding a chunk of farm land the size of Rhode Island. As a result, North Dakota has lost hundreds of millions of dollars in farm income. Think, too, of Indian Tribes that lost their traditional homelands, their economic and social base, hospitals and roads, and a healthy lifestyle. Their lives were disrupted and their culture was turned upside down.

We were promised, in exchange, a major water and irrigation project. It was designed to help meet the agricultural needs of a semi-arid state that gets only 15–17 inches of rainfall per year. We originally expected the resources to irrigate over a million acres of land, most of it in areas less productive than the land lost to the Garrison Reservoir. The Federal Government eventually started a scaled-down version of the project, with 250,000 acres of irrigation. In response to criticisms that the project was too costly and too environmentally disruptive, a federal commission proposed a major revision in 1984 and made recommendations on how to meet the State's contemporary water needs.

But make no mistake, the promise remained. The Garrison Diversion Unit Commission stated:

1. The State of North Dakota deserves a federally-funded water project, at least some of which should be in the form of irrigation development, for land lost through inundation by reservoirs of the Pick-Sloan Missouri Basin Program.

2. The Commission agrees with Congress that a moral commitment was made in 1944 to the Upper Basin States and Indian Tribes with the passage of the Flood Control Act of 1944. The language of the statute establishing this commission reinforces this view. The State of North Dakota sacrificed hundreds of thousands of acres, much of it prime river bottomland, for the greater benefit of the nation. In return, the Federal Government promised assistance in replacement of the economic base of the State and Indian Tribes. There is evidence this has not taken place.

In 1986, I renegotiated the project with the Reagan Administration, the House Interior Committee, and national environmental groups and these talks resulted in the Garrison Diversion Reformulation Act of 1986. The law implemented the Garrison Commission findings and recommendations and included a 130,000 acre irrigation project for the State and tribes, the promise of Missouri River water to augment water supplies in the Red River Valley, an installment on municipal, industrial, and rural (MR&I) water for communities across the State, the initial water systems for the Standing Rock, Fort Berthold, and Ft. Totten Indian reservations and a range of activities to mitigate and enhance wildlife and habitat.

So you may ask, ''What progress has been made on the project?''

Although the promise of irrigation remains largely unfulfilled—with the exception of the Oakes Test Area—we have made substantial progress in laying the groundwork for water delivery and the provision of a partial network for MR&I supplies across the state.

Over one-third of North Dakotans now benefit from 25 MRI programs on four Indian reservations and in some 80 communities.

The Southwest Pipeline constructed by the Bureau of Reclamation has begun to solve water problems in the region where I grew up. For example, in my hometown of Regent the ranching family of Michelle McCormack used to struggle with coffee-colored water that stained their fixtures and clogged their distiller with sludge. Their well barely provided enough water for a family of six, let alone a herd of cattle. Because of the Garrison Project, the McCormacks can now enjoy ample supplies of quality, clean water—something most of us take for granted. And they can make a better living to boot.

We have also taken great strides to mitigate wildlife areas impacted by the development of the McClusky and New Rockford Canals. We now have mitigated over 200% of the required lands, developed a Wetlands Trust Fund and programs, and begun to manage the former Lonetree Dam and Reservoir as a state wildlife conservation area. Incidentally, our new legislation would complete the process by de-authorizing the Lonetree features and converting them into a wildlife conservation area.

For a variety of reasons, though, we have not fully realized the promise of the 1986 Act. Despite some strides, we have yet to develop a major irrigation unit under the Garrison Diversion project. We have only been able to develop a pilot research plot near Oakes, which has validated the use of irrigation for growing high value crops in North Dakota. Under terms of the 1986 Act, we would have 130,000 acres of irrigation, which will be scaled back to 70,000 acres in the bill we introduce today. This will reduce project costs and target limited funds in the bill on high priority irrigation and MR&I water development.

We have completed Phase 1 of Municipal, Rural and Industrial development for three Indian tribes. There remains well over $200 million in needs to complete projects on all four reservations which will meet the charge of the Garrison Reformulation Act for the Secretary of the Interior ''to meet the economic, public health, and environmental needs'' of North Dakota tribes. From hearings I have held on the reservations, I can tell you that tribal members have some the worst water problems in the nation and we must fulfill the 1986 mandate. Our new legislation will provide $200 million to meet the critical water needs of North Dakota's four Indian nations.

We have developed major elements of a water delivery system for the Red River Valley. But the Bureau of Reclamation is currently reviewing that issue with the State of North Dakota to determine the best way to meet the needs of Fargo, Grand Forks, and other communities throughout the Red River Valley.

Let me illustrate the severity of the problem for the valley by noting that in many years in this century, the Red River either has slowed to a trickle or

stopped running altogether. Imagine a major city that depends on a river for its municipal and industrial water supply and that river stops running. That is why our bill provides $200 million to meet the critical water needs the most populous part of our state. But let me add that this money will be fully repaid by water users.

Finally, we have dozens of communities awaiting the promise of reliable supplies of clean and usable water. In several hearings I have held up bottles of coffee-like water from the McCormack ranch and several others, which have not yet been served by such projects as the Southwest Pipeline or the Northwest Area Water System.

Patsy Storhoff's family, for one, has to haul and store water for their household use. At times, they make 1,400 gallons last up to three weeks—what most families tap in just five days. She sometimes tells her kids they have to postpone a bath in order to conserve scarce water because the neighbor who hauls their water won't get to Nome for a couple more days. Although when you pause to think about it, taking a bath in coffee-like water is a liquid oxymoron.

In part because the State would forego 60,000 acres of irrigation in this bill and because we have realized only half of the Garrison Commission's promise of MR&I water for nearly 400,000 North Dakotans, we do provide $300 million for MR&I development across the state. That amount, plus the existing $200 million in authority for MR&I, will roughly match the amount promised by the Commission and the 1986 Act.

So the Dakota Water Resources Act provides $700 million in new authority for water development, of which $200 million is fully repayable. In order to complete this project, however, North Dakota has had to make some major changes. In November of 1997, the delegation introduced the Dakota Water Resources Act as a bill that reflected a consensus of the bi-partisan elected leadership of the state, major cities, four tribal governments, water users, conservation groups, the State Water Coalition, and the Garrison Conservancy District.

In a word, the bill scaled back irrigation from 130,000 to 70,000 acres, provided new resources to complete the major MR&I delivery systems for the four Indian tribes and the state's water supply network, and provided a process for choosing the best way to address Red River Valley water needs. It also made wildlife conservation a project purpose, expanded the Wetlands Trust into a more robust Natural Resources Trust, funded a critical bridge on the Ft. Berthold Reservation and a few priority recreation projects.

Subsequently, the Bureau of Reclamation raised several questions and concerns about the bill which we have addressed in a series of negotiations and discussions over the past months. The revisions mainly address reducing costs, meeting tough environmental standards, strengthening compliance with an international border agreement, and reaffirming the role of the Secretary of the Interior in decision-making. The bi-partisan elected leaders embraced those changes and have agreed to re-introduce the Dakota Water Resources Act with the same language as the substitute amendment (No. 3112) which I offered with Senator CONRAD last year.

Mr. President, permit me to outline the specific provisions in the new version of the bill:

1. Retain the cost share of 25% for MR&I projects, along with a credit for cost share contributions exceeding that amount. This, in place of a 15% cost share.

2. Reimburse the federal government for the share of the capacity of the main stem delivery features which are used by the state. This, instead of writing off these features.

3. Index MR&I and Red River features only from the date of enactment, not since 1986.

4. Expressly bar any irrigation in the Hudson's Bay Basin.

5. Give the Secretary of the Interior the authority to select the Red River Valley Water Supply feature and to determine the feasibility of any newly authorized irrigation areas in the scaled-back package.

6. Extend the Environmental Impact Studies period and firm up Boundary Waters Treaty measures.

Taken together with prior provisions, these changes achieve four purposes. First, they reduce costs by limiting indexing; by defining specific State responsibility for repayment of existing features instead of blanket debt forgiveness; by de-authorizing such major irrigation features as the Lonetree Dam and Reservoir, James River Feeder Canal and Sykeston Canal; and by retaining current law with respect to MR&I cost-sharing and repayment for Red River supply features.

Second, the changes affirm the decision making authority of the Secretary of the Interior on key issues. The Secretary consults with the State of North Dakota on the plan to meet the water needs of the Red River Valley but he makes the final selection of the plan that works best. The Secretary also negotiates cooperative agreements with the State on other aspects of the project. These arrangements protect the Federal interest while assuring that North Dakota is a partner in a project so closely linked to its destiny.

Third, the bill forthrightly addresses concerns of Canada. The U.S. and Canada have a mutual responsibility to abide by the Boundary Waters Treaty and other environmental conventions. The Dakota Water Resources Act states in the purpose that the United States must comply strictly with the Treaty. It further bars any irrigation in the Hudson's Bay drainage with water diverted from the Missouri River, thus limiting biota transfer between basins. Again, the Secretary of Interior chooses the Red River Valley water supply plan, but if that choice entails diversion of Missouri River water, then it must be fully treated with state-of-the-art purification and screening to prevent biota transfer. And as noted before, the bill de-authorizes the Lonetree features to which Canada previously had objected.

Fourth, the revised bill strengthens environmental protection and does so by incorporating the specific recommendations of North Dakota wildlife and conservation groups. It lengthens the periods for completing Environmental Impact Statements. It also protects the Sheyenne Lake National Wildlife Refuge. Moreover, it preserves the role of the Secretary of the Interior on compliance matters and drops the provision that called for a study of bank stabilization on the Missouri River.

In other words, these measures improve even more the proposals in the 1985 Garrison Commission Report on how to meet North Dakota's contemporary water needs. This sounds reasonable, but how does it stack up against the fiscal and environmental challenges of 1999?

Irrespective of the Federal commitment to North Dakota, the State has not even received a proportional share of Bureau of Reclamation funds. Although my state includes six percent of the population in western states, it has received only two percent of Bureau funding.

Next, most Bureau projects were awarded to augment water development and economic growth, not to compensate states for losses suffered from the construction of flood control projects by the Corps of Engineers. So just on the equities, North Dakota has a fair claim to complete Garrison project.

The revised bill will also save the American taxpayer $500 million—when compared to the cost of completing the current project. Moreover, of the $770 million in new authority in the revised bill, North Dakota will repay $345 million—almost half. There is no blanket debt retirement because North Dakota will pay for all facilities it uses.

Moreover, this bill is not just about costs, though reduced and restrained, but about investments. The Dakota Water Resources Act underpins North Dakota's entire effort to stop the outmigration of its young people, the dwindling of family farms, and the decimation of rural communities. It is a charter for rural renewal and economic growth that will help family farms keep the yard lights burning and small towns keep their shop signs glowing.

Finally, this bill is environmentally sound. It does not destroy wetlands, it preserves them. It preserves grasslands and riparian habitat, too. It was not dreamed up by a water development group. It was drafted with the input of tribal and community leaders, local and national environmental groups,

the bipartisan leadership of the state, and the Bureau of Reclamation and Office of Management and Budget. It reflects a balanced approach to water resource development that applies the principles of conservation while offering the hope of economic development.

Ultimately, this bill practices the policy of being a good neighbor that is the hallmark of our state. The Government of Canada approved the 1986 Garrison Act. This bill provides even more protection for Canadian interests. So while we can't appease the political agendas of certain folks in Canada, we can sure keep faith with the Boundary Waters Treaty. And we do.

In conclusion, the Dakota Water Resources Act of 1999 will guarantee that this project meets the tests of fiscal responsibility, environmental protection, and treaty compliance. It will do so while also addressing the critical water development needs of North Dakota and fulfilling the Federal obligation for water development for the communities and tribes of our State. Accordingly, I urge that my colleagues support the Dakota Water Resources Act of 1999.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 624. A bill to authorize construction of the Fort Peck Reservation Rural Water System in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

FORT PECK RURAL WATER SYSTEM

Mr. BURNS. Mr. President, I rise today to introduce a piece of legislation that is vitally important for the Northeast corner of my great state of Montana. As you are aware, water is the most valuable commodity in the West. Unfortunately, in many parts of the West the water available is unsafe to use. This is the case on the Fort Peck Reservation and in the surrounding communities.

These communities are currently dependent on water sources that are either unreliable or contaminated. In some areas the ground water is in short supply, in others high levels of nitrates, sulfates, manganese, iron, dissolved solids and other contaminates ensure that the water is not only unusable for human consumption, but even unusable for livestock. Quite simply, the water is not safe.

Safe drinking water is a necessity in all communities, however, these communities have a very unique set of needs that underscore the importance of clean water. This legislation would ensure the Assiniboine and Sioux people of the Fort Peck Reservation a safe and reliable water supply system. One of the largest reservations in the nation, the Fort Peck Reservation is located in Northeastern Montana and is the home of more than 10,000 people. In addition to a 75 percent unemployment rate, the residents suffer from unusually high incidents of heart disease, high blood pressure and diabetes.

These health problems are magnified by the poor drinking water currently available on the reservation. In one community, the sulfate levels in the water are four times the standard for safe drinking water. In four other communities, the iron levels are five times the standard. Some families have even been forced to abandon their homes as a result of the substandard water quality.

In many cases, residents of the reservation purchased bottled water to avoid illness. While this isn't a big deal to those who can afford it, we are dealing with an area living in extreme poverty. To add insult to injury, one of the largest man made reservoirs in the United States is right down the road. Why must we continue to ask the residents of these communities to place their health at risk when a clean, safe, stable source of water is readily available?

The economic health of the region is also affected by the poor water supply. In fact, a major constraint on the growth of the livestock industry around Fort Peck has been the lack of an adequate watering sites for cattle. Only an adequate water system will solve this problem, and hopefully serve to spur economic activity on the reservation. Recently the administration designated this area as an ''Empowerment Zone.'' The purpose of this designation is to help the tribal government enhance the economic and social well-being of the area's residents. What better foundation can we provide than a safe and reliable water infrastructure. This region's aspirations towards being healthy, both economically and physically, will continue to be stifled until we reach out a helping hand and work towards providing a safe water system.

This legislation, which has the support of Fort Peck residents and the endorsement of the Tribal Council of the Assiniboine and Sioux Tribes, would authorize a reservation-wide municipal, rural and industrial water system for the Fort Peck Reservation. A safe and reliable source of water would improve the health status of the residents and increase the region's attractiveness for economic development.

As the future water needs of the Fort Peck Reservation expand, I believe that it is only right that we take action now. The people of the Fort Peck Reservation and the State of Montana are making a simple request—clean, safe drinking water.

Thank you Mr. President.

FORT PECK RESERVATION RURAL WATER SYSTEM ACT OF 1999

● Mr. BAUCUS. Mr. President, I rise today with my colleague, Senator BURNS, to introduce the ''Fort Peck Reservation Rural Water System Act of 1999.'' This bill, which is broadly supported, will ensure the Assiniboine and Sioux people of the Fort Peck Reservation, as well as the surrounding communities in my great state of Montana, something that each and everyone one of us in this body take for granted everyday—a safe and reliable water supply.

This legislation authorizes a municipal, rural and industrial water system for the Fort Peck Reservation and the surrounding communities off the Reservation who compose the Dry Prairie Water Association. Using a small amount of water from the Missouri River, this project will benefit the entire region of Northeast Montana. This legislation has the support of the State of Montana, the residents of the Fort Peck Reservation, the Tribal Council of the Assiniboine and Sioux Tribes, and all of the towns and communities surrounding the Reservation.

I am proud to sponsor this legislation because it represents the coming together of people who have traditionally been divided on many issues. The need for water has surfaced a tremendous show of friendship and trust in Northeast Montana. This project has given the Fort Peck Assiniboine and Sioux Tribes and the off-Reservation public common ground to work towards and provided the trust needed for rural communities to grow and prosper. The need for water exists not only for drinking, but also for agricultural, municipal, and industrial purposes.

Together, the people in this region are plagued with major drinking water problems. The Reservation and surrounding communities are clearly in desperate need of a safe and good source of drinking water. In one community, the sulfate levels in the water are four times the standard for safe drinking water. In four of the communities, iron levels are five times the standard. Sadly, some residents have been forced to abandon their homes and their farms because their only source of water has been polluted with brine from oil production.

In all of the communities throughout the Reservation, groundwater exceeds the standards for total dissolved solids, iron, sulfates, and nitrates. In some instances, more lethal minerals such as selenium, manganese, and fluorine are found in high concentrations.

In the area north of Culbertson, nitrate levels are too high to safely use ground water. Along the Eastern borders, from Froid to Plentywood, the high manganese, iron and total dissolved solids, make treating the water very expensive. In the Northeast, near Westby, there is oil field contamination from seismographing and salt water injection methods.

In the middle of the service area, near Flaxville, nitrates and sulfates exceed safe drinking water standards also. Finally, in the west, in the St. Marie area, ground water is so hard and in such short supply that it is unusable. In addition, several local water

systems have had occurrences of biological contamination.

As a result of the poor water that exists here, the Indian Health Service has issued several public health alerts. In most communities in this region, residents are forced to buy bottled water at a cost of at least $75 a month. Those who cannot afford to buy bottled water—of whom there are many—must continue to use the existing water sources, at great risk to their health. Yet, despite the above mentioned health risks, an ideal source of safe water, the Missouri River, flows past these people every day.

In addition to the need for safe drinking water, an adequate source of water is needed to preserve and protect agricultural operations. As you know Mr. President, Northeast Montana relies almost exclusively on agriculture to survive. The changing agricultural industry has brought high unemployment and low family income to this area. To compete in these challenging times, most agriculture producers in rural America are adding value to the products they grow. To add value however, you must have processing facilities that allow you to manufacture a high quality, finished product. The people of Northeast Montana do not have the quality of water needed to support industry of this kind. The region's ability to supply employment and compete in agriculture is destroyed without essential infrastructure.

I have described a desperate and complex situation, Mr. President. The solution however, is simple. We need to provide a water system that will deliver a safe and good source of water to the residents of the Region. Fortunately, most of the work has been done. By working together on a local and state level, these groups have struck a deal that provides an adequate source of water for all who need it, for this generation of users and for future generations. By using a small amount of water from the Missouri River, combined with the structure this bill provides, residents of Northeast Montana will be able to enjoy the same, safe water supply that you and I do.

I look forward to swift passage of this legislation.●

By Mr. GRASSLEY (for himself, Mr. TORRICELLI, Mr. BIDEN, and Mr. SESSIONS):

S. 625. A bill to amend title 11, United States Code, and for other purposes; to the Committee on the Judiciary.

THE BANKRUPTCY REFORM ACT OF 1999

Mr. GRASSLEY. Mr. President, I rise today to introduce ''The Bankruptcy Reform Act of 1999'' with Senators TORRICELLI and BIDEN. This bill builds on the conference report which the Senate and House produced at the end of the 105th Congress, which melded together good legislation from both the Senate and the House to create a final product that combined the best aspects of both bills.

The bill I'm introducing today makes important changes to the conference report from last year to accommodate concerns raised by some Senators.

The need for real bankruptcy reform is pretty obvious. You don't need an army of so-called scientists, law professors and academics to tell us that we have a serious bankruptcy problem.

These are good times in America. Thanks to the hard work of a Republican Congress, we have the first balanced budget in a generation. Unemployment is low, we have a solid stock market and most Americans are optimistic about the future.

Despite the prosperity we are experiencing now, About one and a half million Americans will declare bankruptcy this year if previous trends continue. Since 1990, the rate of personal bankruptcy filings are up an amazing 94.7 percent. That's almost a 100 percent increase in bankruptcies since 1990.

Clearly something is amiss, and to paraphrase, ''it's not the economy stupid.'' The problem with the explosion in bankruptcies lies elsewhere. While many Americans who declare bankruptcy undoubtedly need a fresh start, it defies common sense to think that all of the million and a half Americans in bankruptcy court can't repay at least some of their debts. The point of bankruptcy reform is to limit chapter 7—which provides for a no-questions asked complete discharge of debts—to people who don't have the ability to repay any of their debts. People who can repay some or all of their debts should be required to do so in a chapter 13 repayment plan.

An important aspect to remember about bankruptcies is that we all have to pick up the tab for bankrupts who walk away from their debts. Businesses have to raise prices on products and services to offset bankruptcy losses. When you realize this, it becomes very apparent that allowing unfettered access to chapter 7 bankruptcy for high income people is a lot like a special interest tax loophole. Over 30 years ago, Senator Albert Gore, Sr. recognized this in a speech on the Senate floor. According to Senator Gore, like tax loopholes, chapter 7 allows someone to get out of paying his fair share and to shift the cost to hardworking Americans who play by the rules.

I think that Senator Gore had it exactly right. Bankruptcy reform is all about closing loopholes so higher income can't get out of paying their fair share.

As I indicated earlier, the bill I'm introducing now contains significant modifications to accommodate the concerns raised by some Senators. At the outset, I want to make it clear that, as was the case with the original Senate bill from last Congress, under this bill, a person in financial trouble can file in any chapter of the bankruptcy code he or she chooses. And before a debtor can be transferred from chapter 7 to chapter 13 or kicked out of bankruptcy, a judge will have the chance to review the merits of each and every case. I want to repeat this: Each and every chapter 7 debtor who meets the means-test will receive an individual hearing to press his or her own unique case before anything happens. In other words, this bill maintains much of the judicial scrutiny and discretion that was the distinguishing factor of the Senate bill's means-test in the 105th Congress. In the bill Senator TORRICELLI and I are introducing today, there is more flexibility given to the bankruptcy judge.

Under the Grassley-Torricelli bill, there are even greater consumer protections than were in last year's conference report. For instance, in order to protect consumers from deceptive and coercive collection Practices, the Justice Department and the FBI are directed to appoint one agent and one prosecutor to investigate abusive or deceptive reaffirmation practices. Sears recently plead guilty in Massachusetts to bankruptcy fraud in connection with its business practices in seeking reaffirmations, and agreed to pay 60 million dollars in fines.

I think this shows that we already have tough laws on the books regarding reaffirmations. What we need is better law enforcement, not new laws. That's why we require the Justice Department and the FBI to designate a person to investigate reaffirmation practices. Under the Grassley-Torricelli bill, State attorney generals may enforce State criminal statutes similar to those under which Sears was prosecuted, and the State attorney generals are given the express authority to enforce consumer protections already in the bankruptcy code. Taken together, these provisions amount to a massive infusion of Federal and State law enforcment resources for the purpose of protecting consumers in bankruptcy court from abusive collection tactics.

The Grassley-Torricelli bill retains all the protections for child support in last year's conference report, with important new additions. Now, bankruptcy trustees would be required to notify State enforcment agencies of a bankrupt's address and telephone number if the bankrupt owes child support. This means that the bankruptcy court will now help to track down dead-beat parents.

Also, the bill I'm introducing today also provides that debts incurred prior to bankruptcy to pay off non-dischargeable debts will still be dischargeable if the bankrupt owes child support. This means that child support will never have to compete with this new category of non-dischargeable debt after bankruptcy. Taken together, these provisions will provide key new protections for child support claimants.

Mr. President, in addition to the consumer provisions, the Grassley-

Torricelli bill also contains numerous changes to improve the bankruptcy code for businesses. The bill makes numerous changes to the treatment of tax claims in bankruptcy, and I expect that these provision will be refined on the floor as the Finance Committee makes some suggestions.

The bill also creates a new chapter 15 to address the growing problem on transnational bankruptcies.

The bill contains provisions to make chapter 12 permanent and to expand access to chapter 12.

The bill contains an entire title dedicated to expediting chapter 11 proceedings for small businesses.

One business-related provision I want to high-light relates to protecting patients when hospitals and health-care businesses declare bankruptcy. I chaired a hearing on this topic last year and I was shocked to realize that the bankruptcy code doesn't require bankruptcy trustees and creditor committees to consider the welfare of patients when closing down or re-organizing a hospital or nursing home. So, under the Grassley-Torricelli bill, whenever a hospital or nursing home declares bankruptcy a patient ombudsman will be appointed to represent the interests of patients during bankruptcy proceedings. And bankruptcy trustees are required to safeguard the privacy of medical records when closing a health care business. These provisions will provide significant protections for patients in bankruptcy proceedings.

Mr. President, this bill contains many much-needed reforms. This bill is fair, balanced and should receive strong bi-partisan support. I ask unanimous consent to print the bill in the RECORD as there is much public interest in bankruptcy reform and I want to get as much information out as possible. I also ask unanimous consent to print in the RECORD a summary of the major differences between this bill and the conference report from last year.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Bankruptcy Reform Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting ''or consents to'' after ''requests''.

SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 707. Dismissal of a case or conversion to a case under chapter 13";

and

(2) in subsection (b)—

(A) by inserting ''(1)'' after ''(b)'';

(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking ''but not at the request or suggestion'' and inserting '', panel trustee or'';

(II) by inserting '', or, with the debtor's consent, convert such a case to a case under chapter 13 of this title,'' after ''consumer debts''; and

(III) by striking ''substantial abuse'' and inserting ''abuse''; and

(ii) by striking the next to last sentence; and

(C) by adding at the end the following:

''(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

''(I) 25 percent of the debtor's nonpriority unsecured claims in the case; or

''(II) $15,000.

''(ii) The debtor's monthly expenses shall be the applicable monthly (excluding payments for debts) expenses under standards issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the entry of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent.

''(iii) The debtor's average monthly payments on account of secured debts shall be calculated as—

''(I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; divided by

''(II) 60.

''(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as—

''(I) the total amount of debts entitled to priority; divided by

''(II) 60.

''(B)(i) In any proceeding brought under this subsection, the presumption of abuse may be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly total income. In order to establish special circumstances, the debtor shall be required to—

''(I) itemize each additional expense or adjustment of income; and

''(II) provide—

''(aa) documentation for such expenses; and

''(bb) a detailed explanation of the special circumstances that make such expenses necessary and reasonable.

''(ii) The debtor, and the attorney for the debtor if the debtor has an attorney, shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

''(iii) The presumption of abuse may be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) multiplied by 60 to be less than the lesser of—

''(I) 25 percent of the debtor's nonpriority unsecured claims; or

''(II) $15,000.

''(C)(i) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that shows how each such amount is calculated.

''(ii) The Supreme Court shall promulgate rules under section 2075 of title 28, that prescribe a form for a statement under clause (i) and may provide general rules on the content of the statement.

''(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not apply or has been rebutted, the court shall consider—

''(A) whether the debtor filed the petition in bad faith; or

''(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.''.

(b) DEFINITION.—Title 11, United States Code, is amended—

(1) in section 101, by inserting after paragraph (10) the following:

''(10A) 'current monthly income'—

''(A) means the average monthly income from all sources which the debtor, or in a joint case, the debtor and the debtor's spouse, receive without regard to whether the income is taxable income, derived during the 180-day period preceding the date of determination; and

''(B) includes any amount paid by any entity other than the debtor (or, in a joint case, the debtor and the debtor's spouse), on a regular basis to the household expenses of the debtor or the debtor's dependents (and, in a joint case, the debtor's spouse if not otherwise a dependent);''; and

(2) in section 704—

(A) by inserting ''(a)'' before ''The trustee shall—''; and

(B) by adding at the end the following:

''(b)(1) With respect to an individual debtor under this chapter—

''(A) the United States trustee or bankruptcy administrator shall review all materials filed by the debtor and, not later than 10 days before the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and

''(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

''(2) The United States trustee or bankruptcy administrator shall not later than 30 days after receiving a statement filed under paragraph (1) file a motion to dismiss or convert under section 707(b), or file a statement setting forth the reasons the United States trustee or bankruptcy administrator does not believe that such a motion would be appropriate. If, based on the filing of such statement with the court, the United States trustee or bankruptcy administrator determines that the debtor's case should be presumed to be an abuse under section 707(b)

and the product of the debtor's current monthly income, multiplied by 12 is not less than—

''(A) the highest national or applicable State median family income reported for a family of equal or lesser size, whichever is greater; or

''(B) in the case of a household of 1 person, the national or applicable State median household income for 1 earner, whichever is greater.

''(3)(A) The court shall order the counsel for the debtor to reimburse the panel trustee for all reasonable costs in prosecuting a motion brought under section 707(b), including reasonable attorneys' fees, if—

''(i) a panel trustee appointed under section 586(a)(1) of title 28 brings a motion for dismissal or conversion under this subsection; and

''(ii) the court—

''(I) grants that motion; and

''(II) finds that the action of the counsel for the debtor in filing under this chapter was not substantially justified.

''(B) If the court finds that the attorney for the debtor violated Rule 9011, at a minimum, the court shall order—

''(i) the assessment of an appropriate civil penalty against the counsel for the debtor; and

''(ii) the payment of the civil penalty to the panel trustee or the United States trustee.

''(C) In the case of a petition referred to in subparagraph (B), the signature of an attorney shall constitute a certificate that the attorney has—

''(i) performed a reasonable investigation into the circumstances that gave rise to the petition; and

''(ii) determined that the petition—

''(I) is well grounded in fact; and

''(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

''(4)(A) Except as provided in subparagraph (B) and subject to paragraph (5), the court may award a debtor all reasonable costs in contesting a motion brought by a party in interest (other than a panel trustee or United States trustee) under this subsection (including reasonable attorneys' fees) if—

''(i) the court does not grant the motion; and

''(ii) the court finds that—

''(I) the position of the party that brought the motion was not substantially justified; or

''(II) the party brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

''(B) A party in interest that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A).

''(5) Only the judge, United States trustee, bankruptcy administrator, or panel trustee may bring a motion under this section if the debtor and the debtor's spouse combined, as of the date of the order for relief, have a total current monthly income equal to or less than the national or applicable State median family monthly income calculated on a monthly basis for a family of equal size.''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

''707. Dismissal of a case or conversion to a case under chapter 13.''.

SEC. 103. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

''(b)(1) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, that individual shall be given or obtain (as required in section 521(a)(1), as part of the certification process under subchapter I of chapter 5) a written notice prescribed by the United States trustee for the district in which the petition is filed under section 586 of title 28.

''(2) The notice shall contain the following:

''(A) A brief description of chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters.

''(B) A brief description of services that may be available to that individual from a credit counseling service that is approved by the United States trustee for that district.''.

SEC. 104. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the ''Director'') shall—

(1) consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors; and

(2) develop a financial management training curriculum and materials that may be used to educate individual debtors concerning how to better manage their finances.

(b) TEST.—

(1) IN GENERAL.—The Director shall select 3 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) AVAILABILITY OF CURRICULUM AND MATERIALS.—For a 1-year period beginning not later than 270 days after the date of enactment of this Act, the curriculum and materials referred to in paragraph (1) shall be made available by the Director, directly or indirectly, on request to individual debtors in cases filed during that 1-year period under chapter 7 or 13 of title 11, United States Code.

(c) EVALUATION.—

(1) IN GENERAL.—During the 1-year period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the report of the National Bankruptcy Review Commission issued on October 20, 1997, that are representative of consumer education programs carried out by—

(i) the credit industry;

(ii) trustees serving under chapter 13 of title 11, United States Code; and

(iii) consumer counseling groups.

(2) REPORT.—Not later than 3 months after concluding the evaluation under paragraph (1), the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs.

SEC. 105. CREDIT COUNSELING.

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

''(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless that individual has, during the 90-day period preceding the date of filing of the petition of that individual, received from an approved nonprofit credit counseling service described in section 111(a) an individual or group briefing that outlined the opportunities for available credit counseling and assisted that individual in performing a related budget analysis.

''(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved nonprofit credit counseling services for that district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from those programs by reason of the requirements of paragraph (1).

''(B) Each United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.

''(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

''(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

''(ii) states that the debtor requested credit counseling services from an approved nonprofit credit counseling service, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

''(iii) is satisfactory to the court.

''(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition.''.

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking ''or'' at the end;

(2) in paragraph (10), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(11) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111.''.

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

''(g) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

''(h) Subsection (g) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to service the additional individuals who would be required to complete the instructional course by reason of the requirements of this section.

''(i) Each United States trustee or bankruptcy administrator that makes a determination described in subsection (h) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.''.

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''The debtor shall—''; and

(2) by adding at the end the following:

''(b) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

''(1) a certificate from the credit counseling service that provided the debtor services under section 109(h); and

''(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the credit counseling service referred to in paragraph (1).''.

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''§ 111. Credit counseling services; financial management instructional courses

''(a) The clerk of each district shall maintain a list of credit counseling services that provide 1 or more programs described in section 109(h) and a list of instructional courses concerning personal financial management that have been approved by—

''(1) the United States trustee; or

''(2) the bankruptcy administrator for the district.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''111. Credit counseling services; financial management instructional courses.''.

(f) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

''(i) If a case commenced under chapter 7, 11, or 13 of this title is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.''.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

''(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on unsecured consumer debts by not more than 20 percent of the claim, if—

''(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed by an approved credit counseling agency acting on behalf of the debtor;

''(B) the offer of the debtor under subparagraph (A)—

''(i) was made at least 60 days before the filing of the petition; and

''(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

''(C) no part of the debt under the alternative repayment schedule is nondischargeable.

''(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—

''(A) the creditor unreasonably refused to consider the debtor's proposal; and

''(B) the proposed alternative repayment schedule was made in the 60-day period specified in paragraph (1)(B)(i).''.

(b) LIMITATION ON AVOIDABILITY.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

''(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment plan between the debtor and any creditor of the debtor created by an approved credit counseling agency.''.

SEC. 202. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

''(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title) in the manner required by the plan (including crediting the amounts required under the plan) shall constitute a violation of an injunction under subsection (a)(2).''.

SEC. 203. VIOLATIONS OF THE AUTOMATIC STAY.

Section 362(a) of title 11, United States Code, is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) any communication (other than a recitation of the creditor's legal rights) threatening a debtor (for the purpose of coercing an agreement for the reaffirmation of debt), at any time after the commencement and before the granting of a discharge in a case under this title, of an intention to—

''(A) file a motion to—

''(i) determine the dischargeability of a debt; or

''(ii) under section 707(b), to dismiss or convert a case; or

''(B) repossess collateral from the debtor to which the stay applies.''.

SEC. 204. DISCOURAGING ABUSE OF REAFFIRMATION PRACTICES.

(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended by section 202 of this Act, is amended—

(1) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' at the end;

(ii) in subparagraph (B), by inserting ''and'' at the end; and

(iii) by adding at the end the following:

''(C)(i) the consideration for such agreement is based on a wholly unsecured consumer debt; and

''(ii) such agreement contains a clear and conspicuous statement that advises the debtor that—

''(I) the debtor is entitled to a hearing before the court at which—

''(aa) the debtor shall appear in person; and

''(bb) the court shall decide whether the agreement constitutes an undue hardship, is not in the debtor's best interest, or is not the result of a threat by the creditor to take an action that, at the time of the threat, that the creditor may not legally take or does not intend to take; and

''(II) if the debtor is represented by counsel, the debtor may waive the debtor's right to a hearing under subclause (I) by signing a statement—

''(aa) waiving the hearing;

''(bb) stating that the debtor is represented by counsel; and

''(cc) identifying the counsel.''; and

(B) in paragraph (6)(A)—

(i) in clause (i), by striking ''and'' at the end;

(ii) in clause (ii), by striking the period and inserting ''and''; and

(iii) by adding at the end the following:

''(iii) not an agreement that the debtor entered into as a result of a threat by the creditor to take an action that, at the time of the threat, the creditor could not legally take or did not intend to take.''; and

(2) in subsection (d), in the third sentence, by inserting after ''during the course of negotiating an agreement'' the following: ''(or if the consideration by such agreement is based on a wholly secured consumer debt, and the debtor has not waived the right to a hearing under subsection (c)(2)(C))''.

(b) LAW ENFORCEMENT.—

(1) IN GENERAL.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:

''§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt

''(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt.

''(b) UNITED STATES DISTRICT ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION—The individuals referred to in subsection (a) are

''(1) a United States attorney for each judicial district of the United States; and

''(2) an agent of the Federal Bureau of Investigation (within the meaning of section 3107) for each field office of the Federal Bureau of Investigation.

''(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall have primary responsibility for carrying out the duties of a United States attorney under section 3057.''.

(2) CLERICAL AMENDMENT.—The analysis for chapter 9 of title 18, United States Code, is amended by adding at the end the following:

''158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt.''.

(c) EXCEPTIONS TO DISCHARGE.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

''(f) Nothing in this section or in any other provision of this title shall preempt any State law relating to unfair trade practices that imposes restrictions on creditor conduct that would give rise to liability—

''(1) under this section; or

''(2) under section 524, for failure to comply with applicable requirements for seeking a reaffirmation of debt.

''(g) ACTIONS BY STATES.—The attorney general of a State, or an official or agency designated by a State—

''(1) may bring an action on behalf of its residents to recover damages on their behalf under subsection (d) or section 524(c); and

''(2) may bring an action in a State court to enforce a State criminal law that is similar to section 152 or 157 of title 18.''.

Subtitle B—Priority Child Support

SEC. 211. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as redesignated, by striking ''First'' and inserting ''Second'';

(4) in paragraph (3), as redesignated, by striking ''Second'' and inserting ''Third'';

(5) in paragraph (4), as redesignated, by striking ''Third'' and inserting ''Fourth'';

(6) in paragraph (5), as redesignated, by striking ''Fourth'' and inserting ''Fifth'';

(7) in paragraph (6), as redesignated, by striking ''Fifth'' and inserting ''Sixth'';

(8) in paragraph (7), as redesignated, by striking ''Sixth'' and inserting ''Seventh''; and

(9) by inserting before paragraph (2), as redesignated, the following:

''(1) First, allowed claims for domestic support obligations to be paid in the following order on the condition that funds received under this paragraph by a governmental unit in a case under this title be applied:

''(A) Claims that, as of the date of entry of the order for relief, are owed directly to a spouse, former spouse, or child of the debtor, or the parent of such child, without regard to whether the claim is filed by the spouse, former spouse, child, or parent, or is filed by a governmental unit on behalf of that person.

''(B) Claims that, as of the date of entry of the order for relief, are assigned by a spouse, former spouse, child of the debtor, or the parent of that child to a governmental unit or are owed directly to a governmental unit under applicable nonbankruptcy law.''.

SEC. 212. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

''(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that become payable after the date on which the petition is filed.'';

(2) in section 1325(a)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order for such obligation that become payable after the date on which the petition is filed.''; and

(3) in section 1328(a), in the matter preceding paragraph (1), by inserting '', and with respect to a debtor who is required by a judicial or administrative order to pay a domestic support obligation, certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before or after the petition was filed) have been paid'' after ''completion by the debtor of all payments under the plan''.

SEC. 213. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) under subsection (a)—

''(A) of the commencement of an action or proceeding for—

''(i) the establishment of paternity as a part of an effort to collect domestic support obligations; or

''(ii) the establishment or modification of an order for domestic support obligations; or

''(B) the collection of a domestic support obligation from property that is not property of the estate;'';

(2) in paragraph (17), by striking ''or'' at the end;

(3) in paragraph (18), by striking the period at the end and inserting a semicolon; and

(4) by inserting after paragraph (18) the following:

''(19) under subsection (a) with respect to the withholding of income under an order as specified in section 466(b) of the Social Security Act (42 U.S.C. 666(b)); or

''(20) under subsection (a) with respect to—

''(A) the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses under State law, as specified in section 466(a)(16) of the Social Security Act (42 U.S.C. 666(a)(16)) or with respect to the reporting of overdue support owed by an absent parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7));

''(B) the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act (42 U.S.C. 664 and 666(a)(3)); or

''(C) the enforcement of medical obligations as specified under title IV of the Social Security Act (42 U.S.C. 601 et seq.).''.

SEC. 214. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a), by striking paragraph (5) and inserting the following:

''(5) for a domestic support obligation;'';

(2) in subsection (c), by striking ''(6), or (15)'' and inserting ''or (6)''; and

(3) in paragraph (15), by striking ''governmental unit'' and all through the end of the paragraph and inserting a semicolon.

SEC. 215. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));''; and

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting ''of a kind that is specified in section 523(a)(5); or''.

SEC. 216. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

''(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation; or''.

SEC. 217. AMENDMENT TO SECTION 1325 OF TITLE 11, UNITED STATES CODE.

Section 1325(b)(2) of title 11, United States Code, is amended by inserting ''(other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law and which is reasonably necessary to be expended)'' after ''received by the debtor''.

SEC. 218. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

''(14A) 'domestic support obligation' means a debt that accrues before or after the entry of an order for relief under this title that is—

''(A) owed to or recoverable by—

''(i) a spouse, former spouse, or child of the debtor or that child's legal guardian; or

''(ii) a governmental unit;

''(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child, without regard to whether such debt is expressly so designated;

''(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

''(i) a separation agreement, divorce decree, or property settlement agreement;

''(ii) an order of a court of record; or

''(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

''(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent solely for the purpose of collecting the debt.''.

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102(b) of this Act, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking ''and'' at the end;

(B) in paragraph (9), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(10) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In any case described in subsection (a)(10), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 654 and 666, respectively) for the State in which the holder resides; and

''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

''(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim;

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

''(iii) at such time as the debtor is granted a discharge under section 727, notify the holder of that claim and the State child support agency of the State in which that holder resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor; and

''(III) with respect to the debtor's case, the name of each creditor that holds a claim—

''(aa) that is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(bb) that was reaffirmed by the debtor under section 524(c).

''(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.

(b) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, as amended by section 102(b) of this Act, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent of such child entitled to receive priority under section

507(a)(1), provide the applicable notification specified in subsection (d).''; and

(s) by adding at the end the following:

''(d)(1) In any case described in subsection (b)(6), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 654 and 666, respectively) for the State in which the holder resides; and

''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

''(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim; and

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim;

''(iii) at such time as the debtor is granted a discharge under section 1328, notify the holder of the claim and the State child support agency of the State in which that holder resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor; and

''(III) with respect to the debtor's case, the name of each creditor that holds a claim—

''(aa) that is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(bb) that was reaffirmed by the debtor under section 524(c).

''(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making that disclosure.''.

Subtitle C—Other Consumer Protections

SEC. 221. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (3) the following:

''(3A) 'assisted person' means any person whose debts consist primarily of consumer debts and whose nonexempt assets are less than $150,000;'';

(2) by inserting after paragraph (4) the following:

''(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a proceeding under this title;''; and

(3) by inserting after paragraph (12A) the following:

''(12B) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include any person that is any of the following or an officer, director, employee, or agent thereof—

''(A) any nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(B) any creditor of the person to the extent the creditor is assisting the person to restructure any debt owed by the person to the creditor; or

''(C) any depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1751)), or any affiliate or subsidiary of such a depository institution or credit union;''.

(b) CONFORMING AMENDMENT.—Section 104(b)(1) of title 11, United States Code, is amended by inserting ''101(3),'' after ''sections''.

SEC. 222. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 526. Disclosures

''(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide the following notices to the assisted person:

''(1) The written notice required under section 342(b)(1).

''(2) To the extent not covered in the written notice described in paragraph (1) and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

''(A) all information the assisted person is required to provide with a petition and thereafter during a case under this title shall be complete, accurate, and truthful;

''(B) all assets and all liabilities shall be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset, as defined in section 506, shall be stated in those documents if requested after reasonable inquiry to establish such value;

''(C) total current monthly income, projected monthly net income and, in a case under chapter 13, monthly net income shall be stated after reasonable inquiry; and

''(D) information an assisted person provides during the case of that person may be audited under this title and the failure to provide such information may result in dismissal of the proceeding under this title or other sanction including, in some instances, criminal sanctions.

''(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or a substantially similar statement. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

'''IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER

'''If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

'''The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

'''Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a ''trustee'' and by creditors.

'''If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so and a creditor is not permitted to coerce you into reaffirming your debts.

'''If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

'''If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of relief.

'''Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

''(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which may be provided orally or in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

''(1) how to value assets at replacement value, determine total current monthly income, projected monthly income and, in a case under chapter 13, net monthly income, and related calculations;

''(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

''(3) how to—

''(A) determine what property is exempt; and

''(B) value exempt property at replacement value, as defined in section 506.

''(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for a period of 2 years after the latest date on which the notice is given the assisted person.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525 the following:

''526. Disclosures.''.

SEC. 223. DEBTOR'S BILL OF RIGHTS.

(a) DEBTOR'S BILL OF RIGHTS.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 222 of this Act, is amended by adding at the end the following:

"§ 527. Debtor's bill of rights

''(a)(1) A debt relief agency shall—

''(A) not later than 5 business days after the first date on which a debt relief agency provides any bankruptcy assistance services to an assisted person, but before that assisted person's petition under this title is filed—

''(i) execute a written contract with the assisted person specifying clearly and conspicuously the services the agency will provide the assisted person and the basis on which fees or charges will be made for such services and the terms of payment; and

''(ii) give the assisted person a copy of the fully executed and completed contract in a form the person is able to retain;

''(B) disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to proceedings under this title, clearly and conspicuously using the statement: 'We are a debt relief agency. We help people file bankruptcy petitions to obtain relief under the Bankruptcy Code.' or a substantially similar statement; and

''(C) if an advertisement directed to the general public indicates that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, lease eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt, disclose conspicuously in that advertisement that the assistance is with respect to or may involve proceedings under this title, using the following statement: 'We are a debt relief agency. We help people file bankruptcy petitions to obtain relief under the Bankruptcy Code.' or a substantially similar statement.

''(2) For purposes of paragraph (1)(B), an advertisement shall be of bankruptcy assistance services if that advertisement describes or offers bankruptcy assistance with a plan under chapter 12, without regard to whether chapter 13 is specifically mentioned. A statement such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or any other similar statement that would lead a reasonable consumer to believe that help with debts is being offered when in fact in most cases the help available is bankruptcy assistance with a plan under chapter 13 is a statement covered under the preceding sentence.

''(b) A debt relief agency shall not—

''(1) fail to perform any service that the debt relief agency has told the assisted person or prospective assisted person the agency would provide that person in connection with the preparation for or activities during a proceeding under this title;

''(2) make any statement, or counsel or advise any assisted person to make any statement in any document filed in a proceeding under this title, that—

''(A) is untrue and misleading; or

''(B) upon the exercise of reasonable care, should be known by the debt relief agency to be untrue or misleading;

''(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, what services the debt relief agency may reasonably expect to provide that person, or the benefits an assisted person may obtain or the difficulties the person may experience if the person seeks relief in a proceeding under this title; or

''(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of that person filing a proceeding under this title or in order to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a proceeding under this title.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 222 of this Act, is amended by inserting after the item relating to section 526 of title 11, United States Code, the following:

''527. Debtor's bill of rights.''.

SEC. 224. ENFORCEMENT.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 223 of this Act, is amended by adding at the end the following:

"§ 528. Debt relief agency enforcement

''(a) Any waiver by any assisted person of any protection or right provided by or under section 526 or 527 shall be void and may not be enforced by any Federal or State court or any other person.

''(b)(1) Any contract between a debt relief agency and an assisted person for bankruptcy assistance that does not comply with the material requirements of section 526 or 527 shall be treated as void and may not be enforced by any Federal or State court or by any other person.

''(2) Any debt relief agency that has been found, after notice and hearing, to have—

''(A) negligently failed to comply with any provision of section 526 or 527 with respect to a bankruptcy case or related proceeding of an assisted person;

''(B) provided bankruptcy assistance to an assisted person in a case or related proceeding which is dismissed or converted because the debt relief agency's negligent failure to file bankruptcy papers, including papers specified in section 521; or

''(C) negligently or intentionally disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such debt relief agency shall be liable to the assisted person in the amount of any fees and charges in connection with providing bankruptcy assistance to such person that the debt relief agency has already been paid on account of that proceeding.

''(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating section 526 or 527, the State—

''(A) may bring an action to enjoin such violation;

''(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

''(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

''(5) Notwithstanding any other provision of Federal law, if the court, on its own motion or on the motion of the United States trustee, finds that a person intentionally violated section 526 or 527, or engaged in a clear and consistent pattern or practice of violating section 526 or 527, the court may—

''(A) enjoin the violation of such section; or

''(B) impose an appropriate civil penalty against such person.

''(c) This section and sections 526 and 527 shall not annul, alter, affect, or exempt any person subject to those sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 223 of this Act, is amended by inserting after the item relating to section 527 of title 11, United States Code, the following:

''528. Debt relief agency enforcement.''.

SEC. 225. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 226. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

(a) Section 507(a) of title 11, United States Code, as amended by section 211 of this Act, is amended by inserting after paragraph (9) the following:

''(10) Tenth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.''.

(b) Section 523(a)(9) of title 11, United States Code, is amended by inserting ''or vessel'' after ''vehicle''.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. REINFORCEMENT OF THE FRESH START.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking ''by a court'' and inserting ''on a prisoner by any court'',

(2) by striking ''section 1915(b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915'', and

(3) by inserting ''(or a similar non-Federal law)'' after ''title 28'' each place it appears.

SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(3) if a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

''(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease will terminate with respect to the debtor on the 30th day after the filing of the later case;

''(B) upon motion by a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

''(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(i) as to all creditors, if—

''(I) more than 1 previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was pending within the preceding 1-year period;

''(II) a previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

''(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

''(bb) provide adequate protection as ordered by the court; or

''(cc) perform the terms of a plan confirmed by the court; or

''(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 of this title, or any other reason to conclude that the later case will be concluded—

''(aa) if a case under chapter 7 of this title, with a discharge; or

''(bb) if a case under chapter 11 or 13 of this title, with a confirmed plan which will be fully performed; and

''(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

''(4)(A)(i) if a single or joint case is filed by or against an individual debtor under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

''(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

''(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

''(C) a stay imposed under subparagraph (B) shall be effective on the date of entry of the order allowing the stay to go into effect; and

''(D) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(i) as to all creditors if—

''(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

''(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to pay adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

''(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of such creditor.''.

SEC. 303. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

''(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

''(B) multiple bankruptcy filings affecting the real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under this subsection shall be binding in any other case under this title purporting to affect the real property filed not later than 2 years after that recording, except that a debtor in a subsequent case may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 213 of this Act, is amended—

(1) in paragraph (19), by striking ''or'' at the end;

(2) in paragraph (20), by striking the period at the end; and

(3) by inserting after paragraph (20) the following:

''(21) under subsection (a), of any act to enforce any lien against or security interest in real property following the entry of an order under section 362(d)(4) as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order, except that the debtor, in a subsequent case, may move the court for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing; or

''(22) under subsection (a), of any act to enforce any lien against or security interest in real property—

''(A) if the debtor is ineligible under section 109(g) to be a debtor in a bankruptcy case; or

''(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case.''.

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a), as so redesignated—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) in an individual case under chapter 7 of this title, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor within 45 days after the first meeting of creditors under section 341(a)—

''(A) enters into an agreement with the creditor under section 524(c) with respect to the claim secured by such property; or

''(B) redeems such property from the security interest under section 722.''; and

(C) by adding at the end the following:

''(b) If the debtor fails to so act within the 45-day period specified in subsection (a)(6), the personal property affected shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate.''; and

(2) in section 722, by inserting ''in full at the time of redemption'' before the period at the end.

SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362—

(A) in subsection (c), by striking ''(e), and (f)'' and inserting ''(e), (f), and (h)''; and

(B) by redesignating subsection (h), as amended by section 227 of this Act, as subsection (j) and by inserting after subsection (g) the following:

''(h)(1) Subject to paragraph (2), in an individual case under chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to property of the estate securing in whole or in part a claim, or subject to an unexpired lease, if the debtor fails within the applicable period of time set by section 521(a)(2) to—

''(A) file timely any statement of intention required under section 521(a)(2) with respect to that property or to indicate therein that the debtor—

''(i) will either surrender the property or retain the property; and

''(ii) if retaining the property, will, as applicable—

''(I) redeem the property under section 722;

''(II) reaffirm the debt the property secures under section 524(c); or

''(III) assume the unexpired lease under section 365(p) if the trustee does not do so; or

''(B) take timely the action specified in that statement of intention, as the statement may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms.

''(2) Paragraph (1) shall not apply if the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate.''; and

(2) in section 521, as amended by section 304 of this Act—

(A) in subsection (a)(2), as redesignated—

(i) by striking ''consumer'';

(ii) in subparagraph (B)—

(I) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first date set for the meeting of creditors under section 341(a)''; and

(II) by striking ''forty-five day period'' and inserting ''30-day period''; and

(iii) in subparagraph (C), by inserting ''except as provided in section 362(h)'' before the semicolon; and

(B) by adding at the end the following:

''(c) If the debtor fails timely to take the action specified in subsection (a)(6), or in paragraph (1) or (2) of section 362(h), with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under

section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement that has the effect of placing the debtor in default under that lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.''.

SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(a) IN GENERAL.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(i) the plan provides that—

''(I) the holder of such claim retain the lien securing such claim until the earlier of—

''(aa) the payment of the underlying debt determined under nonbankruptcy law; or

''(bb) discharge under section 1328; and

''(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and''.

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following flush sentence:

''For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the debt that is the subject of the claim was incurred within the 5-year period preceding the filing of the petition and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 6-month period preceding that filing.''.

(c) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by section 221 of this Act, is amended—

(1) by inserting after paragraph (13) the following:

''(13A) 'debtor's principal residence'—

''(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

''(B) includes an individual condominium or cooperative unit;''; and

(2) by inserting after paragraph (27), the following:

''(27A) 'incidental property' means, with respect to a debtor's principal residence—

''(A) property commonly conveyed with a principal residence in the area where the real estate is located;

''(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

''(C) all replacements or additions;''.

SEC. 307. EXEMPTIONS.

Section 522(b)(2)(A) of title 11, United States Code, is amended—

(1) by striking ''180'' and inserting ''730''; and

(2) by striking '', or for a longer portion of such 180-day period than in any other place''.

SEC. 308. RESIDENCY REQUIREMENT FOR HOMESTEAD EXEMPTION.

Section 522 of title 11, United States Code, as amended by section 307 of this Act, is amended—

(1) in subsection (b)(2)(A), by inserting ''subject to subsection (n),'' before ''any property''; and

(2) by adding at the end the following:

''(n) For purposes of subsection (b)(2)(A), and notwithstanding subsection (a), the value of an interest in—

''(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

''(3) a burial plot for the debtor or a dependent of the debtor;

shall be reduced to the extent such value is attributable to any portion of any property that the debtor disposed of in the 730-day period ending on the date of the filing of the petition, with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b) if on such date the debtor had held the property so disposed of.''.

SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(a) STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.—Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B)—

(A) by striking ''in the converted case, with allowed secured claims'' and inserting ''only in a case converted to chapter 11 or 12 but not in a case converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12''; and

(B) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) with respect to cases converted from chapter 13—

''(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding; and

''(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.''.

(b) GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

''(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

''(2)(A) In the case of an individual under chapter 7, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

''(B) If within 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

''(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

''(3) In a case under chapter 11 of this title in which the debtor is an individual and in a case under chapter 13 of this title, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.''.

(c) ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.—

(1) IN GENERAL.—Subchapter I of chapter 13 of title 11, United States Code, is amended by inserting after section 1307 the following:

''§ 1308. Adequate protection in chapter 13 cases

''(a)(1)(A) On or before the date that is 30 days after the filing of a case under this chapter, the debtor shall make cash payments in an amount determined under paragraph (2), to—

''(i) any lessor of personal property; and

''(ii) any creditor holding a claim secured by personal property to the extent that the claim is attributable to the purchase of that property by the debtor.

''(B) The debtor or the plan shall continue making the adequate protection payments until the earlier of the date on which—

''(i) the creditor begins to receive actual payments under the plan; or

''(ii) the debtor relinquishes possession of the property referred to in subparagraph (A) to—

''(I) the lessor or creditor; or

''(II) any third party acting under claim of right.

''(2) The payments referred to in paragraph (1)(A) shall be the contract amount.

''(b)(1) Subject to the limitations under paragraph (2), the court may, after notice and hearing, change the amount, and timing of the dates of payment, of payments made under subsection (a).

''(2)(A) The payments referred to in paragraph (1) shall be payable not less frequently than monthly.

''(B) The amount of payments referred to in paragraph (1) shall not be less than the amount of any weekly, biweekly, monthly, or other periodic payment schedules as payable under the contract between the debtor and creditor.

''(c) Notwithstanding section 1326(b), the payments referred to in subsection (a)(1)(A) shall be continued in addition to plan payments under a confirmed plan until actual payments to the creditor begin under that plan, if the confirmed plan provides for—

''(1) payments to a creditor or lessor described in subsection (a)(1); and

''(2) the deferral of payments to such creditor or lessor under the plan until the payment of amounts described in section 1326(b).

''(d) Notwithstanding sections 362, 542, and 543, a lessor or creditor described in subsection (a) may retain possession of property described in that subsection that was obtained in accordance with applicable law before the date of filing of the petition until the first payment under subsection (a)(1)(A) is received by the lessor or creditor.

''(e) On or before the date that is 60 days after the filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide each creditor or lessor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 13 of title 11, United States Code, is amended, in the matter relating to subchapter I, by inserting after the item relating to section 1307 the following:

''1308. Adequate protection in chapter 13 cases.''.

SEC. 310. LIMITATION ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

''(C)(i) for purposes of subparagraph (A)—

''(I) consumer debts owed to a single creditor and aggregating more than $250 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

''(II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

''(ii) for purposes of this subparagraph—

''(I) the term 'extension of credit under an open end credit plan' means an extension of credit under an open end credit plan, within the meaning of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.);

''(II) the term 'open end credit plan' has the meaning given that term under section 103 of Consumer Credit Protection Act (15 U.S.C. 1602); and

''(III) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.''.

SEC. 311. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, as amended by section 303(b) of this Act, is amended—

(1) in paragraph (21), by striking ''or'' at the end;

(2) in paragraph (22), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (22) the following:

''(23) under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement;

''(24) under subsection (a)(3), of the commencement of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement that has terminated under the lease agreement or applicable State law; or

''(25) under subsection (a)(3), of eviction actions based on endangerment to property or person or the use of illegal drugs.''.

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking ''six'' and inserting ''8''; and

(2) in section 1328, by adding at the end the following:

''(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502 if the debtor has received a discharge in any case filed under this title within 5 years before the order for relief under this chapter.''.

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

''(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term 'household goods' means—

''(i) clothing;

''(ii) furniture;

''(iii) appliances;

''(iv) 1 radio;

''(v) 1 television;

''(vi) 1 VCR;

''(vii) linens;

''(viii) china;

''(ix) crockery;

''(x) kitchenware;

''(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor, but only 1 personal computer only if used primarily for the education or entertainment of such minor children;

''(xii) medical equipment and supplies;

''(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor; and

''(xiv) personal effects (including wedding rings and the toys and hobby equipment of minor dependent children) of the debtor and the dependents of the debtor.

''(B) The term 'household goods' does not include—

''(i) works of art (unless by or of the debtor or the dependents of the debtor);

''(ii) electronic entertainment equipment (except 1 television, 1 radio, and 1 VCR);

''(iii) items acquired as antiques;

''(iv) jewelry (except wedding rings); and

''(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.''.

SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

''(14A)(A) incurred to pay a debt that is nondischargeable by reason of section 727, 1141, 1228(a), 1228(b), or 1328(b), or any other provision of this subsection, if the debtor incurred the debt to pay such a nondischargeable debt with the intent to discharge in bankruptcy the newly created debt;

''(B) except that all debts incurred to pay nondischargeable debts shall be presumed to be nondischargeable debts if incurred within 70 days before the filing of the petition (except that, in any case in which there is an allowed claim under section 502 for child support or spousal support entitled to priority under section 507(a)(1) and that was filed in a timely manner, debts that would otherwise be presumed to be nondischargeable debts by reason of this subparagraph shall be treated as dischargeable debts);''.

(b) DISCHARGE UNDER CHAPTER 13.

Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

''(1) provided for under section 1322(b)(5);

''(2) of the kind specified in paragraph (2), (4), (3)(B), (5), (8), or (9) of section 523(a);

''(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

''(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.''.

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by inserting ''(1)'' after ''(c)''; and

(B) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(2) by adding at the end the following:

''(d) At any time, a creditor, in a case of an individual debtor under chapter 7 or 13, may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case. Five days after receipt of such notice, if the court or the debtor is required to give the creditor notice, such notice shall be given at that address.

''(e) An entity may file with the court a notice stating its address for notice in cases under chapters 7 and 13. After 30 days following the filing of such notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (d) with respect to a particular case.

''(f)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor. If the creditor designates a person or department to be responsible for receiving notices concerning bankruptcy cases and establishes reasonable procedures so that bankruptcy notices received by the creditor are to be delivered to such department or person, notice shall not be considered to have been brought to the attention of the creditor until received by such person or department.

''(2) No sanction under section 362(h) or any other sanction that a court may impose on account of violations of the stay under section 362(a) or failure to comply with section 542 or 543 may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by section 305 of this Act, is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

''(1) file—

''(A) a list of creditors; and

''(B) unless the court orders otherwise—

''(i) a schedule of assets and liabilities;

''(ii) a schedule of current income and current expenditures;

''(iii) a statement of the debtor's financial affairs and, if applicable, a certificate—

''(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition under section 110(b)(1) indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b); or

''(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

''(iv) copies of any Federal tax returns, including any schedules or attachments, filed by the debtor for the 3-year period preceding the order for relief;

''(v) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days before the filing of the petition;

''(vi) a statement of the amount of projected monthly net income, itemized to show how the amount is calculated; and

''(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;''; and

(2) by adding at the end the following:

''(d)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case and the court shall make those documents available to the creditor who requests those documents.

''(2)(A) At any time, a creditor in a case under chapter 13 may file with the court notice that the creditor requests the plan filed by the debtor in the case.

''(B) The court shall make such plan available to the creditor who requests such plan—

''(i) at a reasonable cost; and

''(ii) not later than 5 days after such request.

''(e) An individual debtor in a case under chapter 7 or 13 shall file with the court—

''(1) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, with respect to the period from the commencement of the case until such time as the case is closed;

''(2) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order for relief;

''(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and

''(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated—

''(A) beginning on the date that is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief, unless a plan has been confirmed; and

''(B) thereafter, on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

''(f)(1) A statement referred to in subsection (e)(4) shall disclose—

''(A) the amount and sources of income of the debtor;

''(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

''(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

''(2) The tax returns, amendments, and statement of income and expenditures described in paragraph (1) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying, subject to the requirements of subsection (f).

''(g)(1) Not later than 30 days after the date of enactment of the Bankruptcy Reform Act of 1999, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

''(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

''(3) Not later than 1 year after the date of enactment of the Bankruptcy Reform Act of 1999, the Director of the Administrative Office of the United States Courts shall prepare and submit to Congress a report that—

''(A) assesses the effectiveness of the procedures under paragraph (1); and

''(B) if appropriate, includes proposed legislation to—

''(i) further protect the confidentiality of tax information; and

''(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

''(h) If requested by the United States trustee or a trustee serving in the case, the debtor shall provide—

''(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; and

''(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.''.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by section 315 of this Act, is amended by adding at the end the following:

''(i)(1) Notwithstanding section 707(a), and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

''(2) With respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

''(3) Upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.''.

SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

(a) HEARING.—Section 1324 of title 11, United States Code, is amended—

(1) by striking ''After'' and inserting the following:

''(a) Except as provided in subsection (b) and after''; and

(2) by adding at the end the following:

''(b) The hearing on confirmation of the plan may be held not later than 45 days after the meeting of creditors under section 341(a).''.

(b) FILING OF PLAN.—Section 1321 of title 11, United States Code, is amended to read as follows:

''§ 1321. Filing of plan

''Not later than 90 days after the order for relief under this chapter, the debtor shall file a plan, except that the court may extend such period if the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable.''.

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Section 1322(d) of title 11, United States Code, is amended to read as follows:

''(d)(1) Except as provided in paragraph (2), the plan may not provide for payments over a period that is longer than 3 years.

''(2) The plan may provide for payments over a period that is longer than 3 years if—

''(A) the plan is for a case that was converted to a case under this chapter from a case under chapter 7, in which case the plan shall provide for payments over a period of 5 years; or

''(B) the plan is for a case that is not described in subparagraph (A), and the court, for cause, approves a period longer than 3 years, but not to exceed 5 years.''.

SEC. 319. SENSE OF THE CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that Rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(e)''; and

(2) by adding at the end the following:

''(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

''(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

''(B) that 60-day period is extended—

''(i) by agreement of all parties in interest; or

''(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.''.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

SEC. 401. ROLLING STOCK EQUIPMENT.

(a) IN GENERAL.—Section 1168 of title 11, United States Code, is amended to read as follows:

''§ 1168. Rolling stock equipment

''(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court, except that the right to take possession and enforce those other rights and remedies shall be subject to section 362, if—

''(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

''(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract that—

''(i) occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period;

''(ii) occurs or becomes an event of default after the date of commencement of the case and before the expiration of such 60-day period is cured before the later of—

''(I) the date that is 30 days after the date of the default or event of the default; or

''(II) the expiration of such 60-day period; and

''(iii) occurs on or after the expiration of such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract, if cure is permitted under that agreement, lease, or conditional sale contract.

''(2) The equipment described in this paragraph—

''(A) is rolling stock equipment or accessories used on rolling stock equipment, including superstructures or racks, that is subject to a security interest granted by, leased to, or conditionally sold to a debtor; and

''(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

''(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

''(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

''(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(2), if at any time after the date of commencement of the case under this chapter such secured party, lessor, or conditional vendor is entitled under subsection (a)(1) to take possession of such equipment and makes a written demand for such possession of the trustee.

''(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(2), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

''(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.

''(e) With respect to equipment first placed in service after October 22, 1994, for purposes of this section, the term 'rolling stock equipment' includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.''.

(b) AIRCRAFT EQUIPMENT AND VESSELS.—Section 1110 of title 11, United States Code, is amended to read as follows:

''§ 1110. Aircraft equipment and vessels

''(a)(1) Except as provided in paragraph (2) and subject to subsection (b), the right of a secured party with a security interest in equipment described in paragraph (3), or of a lessor or conditional vendor of such equipment, to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies, under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court.

''(2) The right to take possession and to enforce the other rights and remedies described in paragraph (1) shall be subject to section 362 if—

''(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the approval of the court, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

''(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract that occurs—

''(i) before the date of the order is cured before the expiration of such 60-day period;

''(ii) after the date of the order and before the expiration of such 60-day period is cured before the later of—

''(I) the date that is 30 days after the date of the default; or

''(II) the expiration of such 60-day period; and

''(iii) on or after the expiration of such 60-day period is cured in compliance with the terms of such security agreement, lease, or conditional sale contract, if a cure is permitted under that agreement, lease, or contract.

''(3) The equipment described in this paragraph—

''(A) is—

''(i) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that, at the time such transaction is entered into, holds an air carrier operating certificate issued under chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

''(ii) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that, at the time such transaction is entered into, holds a certificate of public convenience and necessity or permit issued by the Department of Transportation; and

''(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

''(4) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

''(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the approval of the court, to extend the 60-day period specified in subsection (a)(1).

''(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(3), if at any time after the date of the order for relief under this chapter such secured party, lessor, or conditional vendor is entitled under subsection (a)(1) to take possession of such equipment and makes a written demand for such possession to the trustee.

''(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(3), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

''(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.''.

SEC. 402. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

''(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*–3) or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f);''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 311 of this Act, is amended—

(1) in paragraph (24), by striking ''or'' at the end;

(2) in paragraph (25), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (25) the following:

''(26) under subsection (a), of—

''(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

''(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or

''(C) any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements.''.

SEC. 403. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.''.

SEC. 404. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking ''10'' each place it appears and inserting ''30''.

SEC. 405. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

''(4)(A) Subject to subparagraph (B), in any case under any chapter of this title, an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected and the trustee shall immediately surrender that nonresidential real property to the lessor if the trustee does not assume or reject the unexpired lease by the earlier of—

''(i) the date that is 120 days after the date of the order for relief; or

''(ii) the date of the entry of an order confirming a plan.

''(B) The court may extend the period determined under subparagraph (A) only upon a motion of the lessor.''.

SEC. 406. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

Section 1102(a)(2) of title 11, United States Code, is amended by inserting before the first sentence the following: ''On its own motion or on request of a party in interest, and after notice and hearing, the court may order a change in the membership of a committee appointed under this subsection, if

the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders.''.

SEC. 407. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection designated as subsection (g) (as added by section 222(a) of Public Law 103–394) as subsection (i); and

(2) by adding at the end the following:

''(j)(1) Notwithstanding section 545 (2) and (3), the trustee may not avoid a warehouseman's lien for storage, transportation or other costs incidental to the storage and handling of goods.

''(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any applicable State statute that is similar to section 7–209 of the Uniform Commercial Code.''.

SEC. 408. LIMITATION.

Section 546(c)(1)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''45''.

SEC. 409. AMENDMENT TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a)(3) of title 11, United States Code, is amended—

(1) by striking ''(A) the; and inserting ''(i) the'';

(2) by striking ''(B)'' and inserting ''(ii)'';

(3) by striking ''(C)'' and inserting ''(iii)'';

(4) by striking ''(D)'' and inserting ''(iv)'';

(5) by striking ''(E)'' and inserting ''(v)'';

(6) in subparagraph (A), by inserting ''to an examiner, trustee under chapter 11, or professional person'' after ''awarded''; and

(7) by adding at the end the following:

''(B) In determining the amount of reasonable compensation to be awarded a trustee, the court shall treat such compensation as a commission based on the results achieved.''.

SEC. 410. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

''(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.''.

SEC. 411. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

''(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

''(B) made according to ordinary business terms;'';

(2) in paragraph (7) by striking ''or'' at the end;

(3) in paragraph (8) by striking the period at the end and inserting ''; or''; and

(4) by adding at the end the following:

''(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.''.

SEC. 412. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting '', or a nonconsumer debt against a noninsider of less than $10,000,'' after ''$5,000''.

SEC. 413. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking ''On'' and inserting ''(1) Subject to paragraph (1), on''; and

(2) by adding at the end the following:

''(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

''(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.''.

SEC. 414. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking ''dwelling'' the first place it appears;

(2) by striking ''ownership or'' and inserting ''ownership,'';

(3) by striking ''housing'' the first place it appears; and

(4) by striking ''but only'' and all that follows through ''but nothing in this paragraph'' and inserting ''or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot, and until such time as the debtor or trustee has surrendered any legal, equitable or possessory interest in such unit, such corporation, or such lot, but nothing in this paragraph''.

SEC. 415. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting after the first sentence the following: ''Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.

SEC. 416. ELIMINATION OF CERTAIN FEES PAYABLE IN CHAPTER 11 BANKRUPTCY CASES.

(a) AMENDMENTS.—Section 1930(a)(6) of title 28, United States Code, is amended—

(1) in the first sentence by striking ''until the case is converted or dismissed, whichever occurs first''; and

(2) in the second sentence—

(A) by striking ''The'' and inserting ''Until the plan is confirmed or the case is converted (whichever occurs first) the''; and

(B) by striking ''less than $300,000;'' and inserting ''less than $300,000. Until the case is converted, dismissed, or closed (whichever occurs first and without regard to confirmation of the plan) the fee shall be''.

(b) DELAYED EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

SEC. 417. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

''(14) 'disinterested person' means a person that—

''(A) is not a creditor, an equity security holder, or an insider;

''(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

''(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;''.

SEC. 418. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

''(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field;''.

SEC. 419. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

''(B) Upon the filing of a report under subparagraph (A)—

''(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

''(ii) the service of any trustee appointed under subsection (d) shall terminate.

''(C) In the case of any dispute arising out of an election described in subparagraph (A), the court shall resolve the dispute.''.

Subtitle B—Small Business Bankruptcy Provisions

SEC. 421. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended by striking subsection (f) and inserting the following:

''(f) Notwithstanding subsection (b), in a small business case—

''(1) in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information;

''(2) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

''(3) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

''(4)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

''(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 20 days before the date of the hearing on confirmation of the plan; and

''(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.''.

SEC. 422. DEFINITIONS; EFFECT OF DISCHARGE.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

''(51D) 'small business debtor'—

''(A) subject to subparagraph (B), means a person (including any affiliate of such person that is also a debtor under this title) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $4,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has appointed under section 1102(a)(1) a committee of unsecured creditors that the court has determined is sufficiently active and representative to provide effective oversight of the debtor; and

''(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $4,000,000 (excluding debt owed to 1 or more affiliates or insiders);''.

(b) EFFECT OF DISCHARGE.—Section 524 of title 11, United States Code, as amended by section 204 of this Act, is amended by adding at the end the following:

''(j)(1) An individual who is injured by the willful failure of a creditor to substantially comply with the requirements specified in subsections (c) and (d), or by any willful violation of the injunction operating under subsection (a)(2), shall be entitled to recover—

''(A) the greater of—

''(i) the amount of actual damages; or

''(ii) $1,000; and

''(B) costs and attorneys' fees.

''(2) An action to recover for a violation specified in paragraph (1) may not be brought as a class action.''.

(c) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business''.

SEC. 423. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of the enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 424. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

''§ 308. Debtor reporting requirements

''(1) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

''(2) A small business debtor shall file periodic financial and other reports containing information including—

''(A) the debtor's profitability;

''(B) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

''(C) comparisons of actual cash receipts and disbursements with projections in prior reports;

''(D)(i) whether the debtor is—

''(I) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

''(II) timely filing tax returns and paying taxes and other administrative claims when due; and

''(ii) if the debtor is not in compliance with the requirements referred to in clause (i)(I) or filing tax returns and making the payments referred to in clause (i)(II), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(iii) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

''308. Debtor reporting requirements.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 425. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand the small business debtor's financial condition and plan the small business debtor's future.

SEC. 426. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Title 11, United States Code, is amended by inserting after section 1114 the following:

''§ 1115. Duties of trustee or debtor in possession in small business cases

''In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

''(1) append to the voluntary petition or, in an involuntary case, file within 3 days after the date of the order for relief—

''(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

''(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

''(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court waives that requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances;

''(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

''(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

''(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

''(6)(A) timely file tax returns;

''(B) subject to section 363(c)(2), timely pay all administrative expense tax claims, except those being contested by appropriate proceedings being diligently prosecuted; and

''(C) subject to section 363(c)(2), establish 1 or more separate deposit accounts not later than 10 business days after the date of order for relief (or as soon thereafter as possible if all banks contacted decline the business) and deposit therein, not later than 1 business day after receipt thereof, all taxes payable for periods beginning after the date the case is commenced that are collected or withheld by the debtor for governmental units, unless the court waives that requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances; and

''(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.''.

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 11, United States Code, is amended by inserting after the item relating to section 1114 the following:

''1115. Duties of trustee or debtor in possession in small business cases.''.

SEC. 427. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

''(e) In a small business case—

''(1) only the debtor may file a plan until after 90 days after the date of the order for relief, unless that period is —

''(A) shortened on request of a party in interest made during the 90-day period;

''(B) extended as provided by this subsection, after notice and hearing; or

''(C) the court, for cause, orders otherwise;

''(2) the plan, and any necessary disclosure statement, shall be filed not later than 90 days after the date of the order for relief; and

''(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e), within which the plan shall be confirmed, may be extended only if—

''(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

''(B) a new deadline is imposed at the time the extension is granted; and

''(C) the order extending time is signed before the existing deadline has expired.''.

SEC. 428. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a small business case, the plan shall be confirmed not later than 150 days after the date of the order for relief, unless such 150-day period is extended as provided in section 1121(e)(3).''.

SEC. 429. PROHIBITION AGAINST EXTENSION OF TIME.

Section 105(d) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2)(B)(vi), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) in a small business case, not extend the time periods specified in sections 1121(e) and 1129(e), except as provided in section 1121(e)(3).''.

SEC. 430. DUTIES OF THE UNITED STATES TRUSTEE.

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking ''and'' at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

''(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases;'';

(2) in paragraph (5), by striking ''and'' at the end;

(3) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(4) by inserting after paragraph (6) the following:

''(7) in each of such small business cases—

''(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

''(i) begin to investigate the debtor's viability;

''(ii) inquire about the debtor's business plan;

''(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

''(iv) attempt to develop an agreed scheduling order; and

''(v) inform the debtor of other obligations;

''(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns; and

''(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

''(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.''.

SEC. 431. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, as amended by section 429 of this Act, is amended—

(1) in the matter preceding paragraph (1) by striking '', may'';

(2) by striking paragraph (1) and inserting the following:

''(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and''; and

(3) in paragraph (2), by striking ''unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure,'' and inserting ''may''.

SEC. 432. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, is amended—

(1) in subsection (j), as redesignated by section 305(1) of this Act—

(A) by striking ''An'' and inserting ''(1) Except as provided in paragraph (2), an''; and

(B) by adding at the end the following:

''(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) against such entity shall be limited to actual damages.''; and

(2) by inserting after subsection (j), as added by section 419 of this Act, the following:

''(k)(1) Except as provided in paragraph (2), the filing of a petition under chapter 11 of this title operates as a stay of the acts described in subsection (a) only in an involuntary case involving no collusion by the debtor with creditors and in which the debtor—

''(A) is a debtor in a small business case pending at the time the petition is filed;

''(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

''(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

''(D) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C).

''(2) Paragraph (1) does not apply to the filing of a petition if the debtor proves by a preponderance of the evidence that—

''(A) the filing of that petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

''(B) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.''.

SEC. 433. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

''(b)(1) Except as provided in paragraph (2), in subsection (c), and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

''(2) The relief provided in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes by a preponderance of the evidence that—

''(A) it is more likely than not that a plan will be confirmed within—

''(i) a period of time fixed under this title or by order of the court entered under section 1121(e)(3); or

''(ii) a reasonable period of time if no period of time has been fixed; and

''(B) if the reason is an act or omission of the debtor that—

''(i) there exists a reasonable justification for the act or omission; and

''(ii)(I) the act or omission will be cured within a reasonable period of time fixed by the court, but not to exceed 30 days after the court decides the motion, unless the movant expressly consents to a continuance for a specific period of time; or

''(II) compelling circumstances beyond the control of the debtor justify an extension.

''(3) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion within 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

''(4) For purposes of this subsection, cause includes—

''(A) substantial or continuing loss to or diminution of the estate;

''(B) gross mismanagement of the estate;

''(C) failure to maintain appropriate insurance;

''(D) unauthorized use of cash collateral harmful to 1 or more creditors;

''(E) failure to comply with an order of the court;

''(F) failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

''(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under Rule 2004 of the Federal Rules of Bankruptcy Procedure;

''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee;

''(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;

''(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

''(K) failure to pay any fees or charges required under chapter 123 of title 28;

''(L) revocation of an order of confirmation under section 1144;

''(M) inability to effectuate substantial consummation of a confirmed plan;

''(N) material default by the debtor with respect to a confirmed plan; and

''(O) termination of a plan by reason of the occurrence of a condition specified in the plan.

''(5) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion within 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.''.

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking ''or'' at the end;

(2) in paragraph (2) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee is in the best interests of creditors and the estate.''.

SEC. 434. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of the enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General of the United States, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 435. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting ''or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later'' after ''90-day period)''; and

(2) by striking subparagraph (B) and inserting the following:

''(B) the debtor has commenced monthly payments that—

''(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

''(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or''.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting '', notwithstanding section 301(b)'' before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''A voluntary''; and

(2) by striking the last sentence and inserting the following:

''(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''.

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901 of title 11, United States Code, is amended—

(1) by inserting ''555, 556,'' after ''553,''; and

(2) by inserting ''559, 560,'' after ''557,''.

TITLE VI—IMPROVED BANKRUPTCY STATISTICS AND DATA

SEC. 601. AUDIT PROCEDURES.

(a) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

''(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f); and''; and

(2) by adding at the end the following:

''(f)(1)(A) The Attorney General shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title.

''(B) Those procedures shall—

''(i) establish a method of selecting appropriate qualified persons to contract to perform those audits;

''(ii) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

''(iii) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the disctrict in which the schedules were filed; and

''(iv) include procedures for providing, not less frequently than annually, public information concerning the aggregate results of the audits referred to in this subparagraph, including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

''(2) The United States trustee for each district may contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1).

''(3)(A) The report of each audit conducted under this subsection shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case where a material misstatement of income or expenditures or of assets has been reported, the clerk of the bankruptcy court shall give notice of the misstatement to the creditors in the case.

''(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

''(i) report the material misstatement, if appropriate, to the United States Attorney under section 3057 of title 18; and

''(ii) if advisable, take appropriate action, including commencing an adversary proceeding to revoke the debtor's discharge under section 727(d) of title 11.''.

(b) AMENDMENTS TO SECTION 521 OF TITLE 11, UNITED STATES CODE.—Paragraphs (3) and (4) of section 521(a) of title 11, United States Code, as amended by section 315 of this Act, are each amended by inserting ''or an auditor appointed under section 586 of title 28'' after ''serving in the case'' each place that term appears.

(c) AMENDMENTS TO SECTION 727 OF TITLE 11, UNITED STATES CODE.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) the debtor has failed to explain satisfactorily—

''(A) a material misstatement in an audit performed under section 586(f) of title 28; or

''(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and any other papers, things, or property belonging to the debtor that are requested for an audit conducted under section 586(f).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 602. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

''§ 159. Bankruptcy statistics

''(a) The clerk of each district court shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Office').

''(b) The Director shall—

''(1) compile the statistics referred to in subsection (a);

''(2) make the statistics available to the public; and

''(3) not later than October 31, 1999, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

''(c) The compilation required under subsection (b) shall—

''(1) be itemized, by chapter, with respect to title 11;

''(2) be presented in the aggregate and for each district; and

''(3) include information concerning—

''(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed under section 2075 and filed by those debtors;

''(B) the total current monthly income, projected monthly net income, and average income, and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 111, 521, and 1322 of title 11;

''(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

''(D) the average period of time between the filing of the petition and the closing of the case;

''(E) for the reporting period—

''(i) the number of cases in which a reaffirmation was filed; and

''(ii)(I) the total number of reaffirmations filed;

''(II) of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney; and

''(III) of the cases under each of subclauses (I) and (II), the number of cases in which the reaffirmation was approved by the court;

''(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

''(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

''(II) the number of final orders determining the value of property securing a claim issued;

''(ii) the number of cases dismissed for failure to make payments under the plan; and

''(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the date of filing;

''(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

''(H) the number of cases in which sanctions under Rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's counsel and damages awarded under such rule.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

''159. Bankruptcy statistics.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 603. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by inserting after section 589a the following:

''§ 589b. Bankruptcy data

''(a) Within a reasonable period of time after the effective date of this section, The Attorney General of the United States shall issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

''(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

''(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

''(b) Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum practicable access of the public, by—

''(1) physical inspection at 1 or more central filing locations; and

''(2) electronic access through the Internet or other appropriate media.

''(c)(1) The information required to be filed in the reports referred to in subsection (b) shall be information that is—

''(A) in the best interests of debtors and creditors, and in the public interest; and

''(B) reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system.

''(2) In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(A) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; and

''(B) economy, simplicity, and lack of undue burden on persons with a duty to file reports.

''(d)(1) Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall include with respect to a case under such title, by appropriate category—

''(A) information about the length of time the case was pending;

''(B) assets abandoned;

''(C) assets exempted;

''(D) receipts and disbursements of the estate;

''(E) expenses of administration;

''(F) claims asserted;

''(G) claims allowed; and

''(H) distributions to claimants and claims discharged without payment.

''(2) In cases under chapters 12 and 13 of title 11, final reports proposed for adoption by trustees shall include—

''(A) the date of confirmation of the plan;

''(B) each modification to the plan; and

''(C) defaults by the debtor in performance under the plan.

''(3) The information described in paragraphs (1) and (2) shall be in addition to such other matters as are required by law for a final report or as the Attorney General, in the discretion of the Attorney General, may propose for a final report.

''(e)(1) Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall include—

''(A) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

''(B) the length of time the case has been pending;

''(C) the number of full-time employees—

''(i) as of the date of the order for relief; and

''(ii) at the end of each reporting period since the case was filed;

''(D) cash receipts, cash disbursements, and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

''(E) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

''(F) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those that would not have been so incurred); and

''(G) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.

''(2) The information described in paragraph (1) shall be in addition to such other matters as are required by law for a periodic report or as the Attorney General, in the discretion of the Attorney General, may propose for a periodic report.''.

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) it should be the national policy of the United States that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public subject to such appropriate privacy concerns and safeguards as the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting ''(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)'' after ''under this title'';

(2) in subsection (b)(2), by inserting ''(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)'' after ''507(a)(1)''; and

(3) by adding at the end the following:

''(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

''(1) exhaust the unencumbered assets of the estate; and

''(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs, and expenses of preserving or disposing of that property.

''(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

''(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3).

''(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4).''.

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.''.

SEC. 702. EFFECTIVE NOTICE TO GOVERNMENT.

(a) EFFECTIVE NOTICE TO GOVERNMENTAL UNITS.—Section 342 of title 11, United States Code, as amended by section 315(a) of this Act, is amended by adding at the end the following:

''(g)(1) If a debtor lists a governmental unit as a creditor in a list or schedule, any notice required to be given by the debtor under this title, applicable rule, other provision of law, or order of the court, shall identify the department, agency, or instrumentality through which the debtor is indebted.

''(2) The debtor shall identify (with information such as a taxpayer identification number, loan, account or contract number, or real estate parcel number, if applicable), and describe the underlying basis for the claim of the governmental unit.

''(3) If the liability of the debtor to a governmental unit arises from a debt or obligation owed or incurred by another individual, entity, or organization, or under a different name, the debtor shall identify that individual, entity, organization, or name.

''(h) The clerk shall keep and update on a quarterly basis, in such form and manner as the Director of the Administrative Office of the United States Courts prescribes, a register in which a governmental unit may designate or redesignate a mailing address for service of notice in cases pending in the district. The clerk shall make such register available to debtors.''.

(b) ADOPTION OF RULES PROVIDING NOTICE.—

(1) IN GENERAL.—Within a reasonable period of time after the date of enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference shall propose for adoption enhanced rules for providing notice to Federal, State, and local government units that have regulatory authority over the debtor or that may be creditors in the debtor's case.

(2) PERSONS NOTIFIED.—The rules proposed under paragraph (1) shall be reasonably calculated to ensure that notice will reach the representatives of the governmental unit (or subdivision thereof) who will be the appropriate persons authorized to act upon the notice.

(3) RULES REQUIRED.—At a minimum, the rules under paragraph (1) should require that the debtor—

(A) identify in the schedules and the notice, the subdivision, agency, or entity with respect to which such notice should be received;

(B) provide sufficient information (such as case captions, permit numbers, taxpayer identification numbers, or similar identifying information) to permit the governmental unit (or subdivision thereof) entitled to receive such notice to identify the debtor or the person or entity on behalf of which the debtor is providing notice in any case in which—

(i) the debtor may be a successor in interest; or

(ii) may not be the same entity as the entity that incurred the debt or obligation; and

(C) identify, in appropriate schedules, served together with the notice—

(i) the property with respect to which the claim or regulatory obligation may have arisen, if applicable;

(ii) the nature of such claim or regulatory obligation; and

(iii) the purpose for which notice is being given.

(c) EFFECT OF FAILURE OF NOTICE.—Section 342 of title 11, United States Code, as amended by subsection (a), is amended by adding at the end the following:

''(i) A notice that does not comply with subsections (d) and (e) shall not be effective unless the debtor demonstrates by clear and convincing evidence that—

''(1) timely notice was given in a manner reasonably calculated to satisfy the requirements of this section; and

''(2) either—

''(A) the notice was timely sent to the address provided in the register maintained by the clerk of the district in which the case was pending for such purposes; or

''(B) no address was provided in such list for the governmental unit and that an officer of the governmental unit who is responsible for the matter or claim had actual knowledge of the case in sufficient time to act.''.

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

The second sentence of section 505(b) of title 11, United States Code, is amended by striking ''Unless'' and inserting ''If the request is made substantially in the manner designated by the governmental unit and unless''.

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 511. Rate of interest on tax claims

''If any provision of this title requires the payment of interest on a tax claim or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be as follows:

''(1) In the case of secured tax claims, unsecured ad valorem tax claims, other unsecured tax claims in which interest is required to be paid under section 726(a)(5), and administrative tax claims paid under section 503(b)(1), the rate shall be determined under applicable nonbankruptcy law.

''(2)(A) In the case of any tax claim other than a claim described in paragraph (1), the minimum rate of interest shall be a percentage equal to the sum of—

''(i) 3; plus

''(ii) the Federal short-term rate rounded to the nearest full percent, determined under section 1274(d) of the Internal Revenue Code of 1986.

''(B) In the case of any claim for Federal income taxes, the minimum rate of interest shall be subject to any adjustment that may be required under section 6621(d) of the Internal Revenue Code of 1986.

''(C) In the case of taxes paid under a confirmed plan or reorganization under this title, the minimum rate of interest shall be determined as of the calendar month in which the plan is confirmed.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 510 the following:

''511. Rate of interest on tax claims.''.

SEC. 705. TOLLING OF PRIORITY OF TAX CLAIM TIME PERIODS.

Section 507(a)(8)(A) of title 11, United States Code, as redesignated by section 221 of this Act, is amended—

(1) in clause (i), by inserting before the semicolon at the end, the following: '', plus any time during which the stay of proceedings was in effect in a prior case under this title, plus 6 months''; and

(2) by striking clause (ii) and inserting the following:

''(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

''(I) any time during which an offer in compromise with respect to that tax, was pending or in effect during that 240-day period, plus 30 days;

''(II) the lesser of—

''(aa) any time during which an installment agreement with respect to that tax was pending or in effect during that 240-day period, plus 30 days; or

''(bb) 1 year; and

''(III) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period; plus 6 months.''.

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(9)(B) of title 11, United States Code, as redesignated by section 221 of this Act, is amended by striking ''assessed'' and inserting ''incurred''.

SEC. 707. CHAPTER 13 DISCHARGE OF FRAUDULENT AND OTHER TAXES.

Section 1328(a)(2) of title 11, United States Code, as amended by section 228 of this Act, is amended by inserting ''(1),'' after ''paragraph''.

SEC. 708. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.

Section 1141(d) of title 11, United States Code, is amended by adding at the end the following:

''(5) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt for a tax or customs duty with respect to which the debtor—

''(A) made a fraudulent return; or

''(B) willfully attempted in any manner to evade or defeat that tax or duty.''.

SEC. 709. STAY OF TAX PROCEEDINGS.

(a) SECTION 362 STAY LIMITED TO PREPETITION TAXES.—Section 362(a)(8) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: '', with respect to a tax liability for a taxable period ending before the order for relief under section 301, 302, or 303''.

(b) APPEAL OF TAX COURT DECISIONS PERMITTED.—Section 362(b)(9) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking ''or'' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(E) the appeal of a decision by a court or administrative tribunal which determines a tax liability of the debtor (without regard to whether such determination was made prepetition or postpetition).''.

SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking ''and'' at the end; and

(2) in subparagraph (C), by striking ''deferred cash payments, over a period not exceeding six years after the date of assessment of such claim,'' and all that follows through the end of the subparagraph, and inserting ''regular installment payments—

''(i) of a total value, as of the effective date of the claim, equal to the allowed amount of such claim in cash, but in no case with a balloon payment; and

''(ii) beginning not later than the effective date of the plan and ending on the earlier of—

''(I) the date that is 5 years after the date of the filing of the petition; or

''(II) the last date payments are to be made under the plan to unsecured creditors; and''; and

(3) by adding at the end the following:

''(D) with respect to a secured claim which would otherwise meet the description on an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).''.

SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by striking the semicolon at the end and inserting '', except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law;''.

SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Any''; and

(2) by adding at the end the following:

''(b) A tax under subsection (a) shall be paid when due in the conduct of business unless—

''(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable period of time after the lien attaches, by the trustee of a bankruptcy estate, under section 554 of title 11; or

''(2) payment of the tax is excused under a specific provision of title 11.

''(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

''(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

''(2) before the due date of the tax, the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.''.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting ''whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both,'' before ''except''.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by adding ''and'' at the end; and

(3) by adding at the end the following:

''(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of a claim described in subparagraph (B) or (C);''.

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting ''or State statute'' after ''agreement''; and

(2) in subsection (c), by inserting '', including the payment of all ad valorem property taxes with respect to the property'' before the period at the end.

SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking ''before the date on which the trustee commences distribution under this section;'' and inserting the following: ''on or before the earlier of—

''(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

''(B) the date on which the trustee commences final distribution under this section;''.

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (1)(B)—

(A) by inserting ''or equivalent report or notice,'' after ''a return,'';

(B) in clause (i)—

(i) by inserting ''or given'' after ''filed''; and

(ii) by striking ''or'' at the end; and

(C) in clause (ii)—

(i) by inserting ''or given'' after ''filed''; and

(ii) by inserting '', report, or notice'' after ''return''; and

(2) by adding at the end the following flush sentences:

''For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.''.

SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

The second sentence of section 505(b) of title 11, United States Code, as amended by section 703 of this Act, is amended by inserting ''the estate,'' after ''misrepresentation,''.

SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by section 212 of this Act, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(8) if the debtor has filed all applicable Federal, State, and local tax returns as required by section 1309.''.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Chapter 13 of title 11, United States Code, as amended by section 309(c) of this Act, is amended by adding at the end the following:

''§ 1309. Filing of prepetition tax returns

''(a) Not later than the day before the day on which the first meeting of the creditors is convened under section 341(a), the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 3-year period ending on the date of the filing of the petition.

''(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the first meeting of creditors is convened under section 341(a), the trustee may continue that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

''(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that first meeting; or

''(B) for any return that is not past due as of the date of the filing of the petition, the later of—

''(i) the date that is 120 days after the date of that first meeting; or

''(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request has been timely made, according to applicable nonbankruptcy law.

''(2) Upon notice and hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by clear and convincing evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

''(A) a period of not more than 30 days for returns described in paragraph (1); and

''(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

''(c) For purposes of this section, the term 'return' includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986, or a similar State or local law, or written stipulation to a judgment entered by a nonbankruptcy tribunal.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1308 the following:

''1309. Filing of prepetition tax returns.''.

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d), the following:

''(e) Upon the failure of the debtor to file a tax return under section 1309, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss the case.''.

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following '', and except that in a case under chapter 13 of this title, a claim of a governmental unit for a tax with respect to a return filed under section 1309 shall be timely if the claim is filed on or before the date that is 60 days after that return was filed in accordance with applicable requirements''.

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference should, within a reasonable period of time after the date of enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, a governmental unit may object to the confirmation of a plan on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1309 and 1325(a)(7) of title 11, United States Code; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax with respect to which a return is required to be filed under section 1309 of title 11, United States Code, shall be filed until such return has been filed as required.

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting ''including a full discussion of the potential material, Federal, State, and local tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor domiciled in the State in which the debtor resides or has its principal place of business typical of the holders of claims or interests in the case,'' after ''records''; and

(2) by striking ''a hypothetical reasonable investor typical of holders of claims or interests'' and inserting ''such a hypothetical investor''.

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by section 402 of this Act, is amended—

(1) in paragraph (25), by striking ''or'' at the end;

(2) in paragraph (26), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (26) the following:

''(27) under subsection (a), of the setoff of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the order for relief against an income tax liability for a taxable period that also ended before the order for relief, unless—

''(A) before that setoff, an action to determine the amount or legality of that tax liability under section 505(a) was commenced; or

''(B) in any case in which the setoff of an income tax refund is not permitted because of a pending action to determine the amount or legality of a tax liability, in which case the governmental unit may hold the refund pending the resolution of the action.''.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

''CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

''§ 1501. Purpose and scope of application

''(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

''(1) cooperation between—

''(A) United States courts, United States Trustees, trustees, examiners, debtors, and debtors in possession; and

''(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

''(2) greater legal certainty for trade and investment;

''(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

''(4) protection and maximization of the value of the debtor's assets; and

''(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

''(b) This chapter applies if—

''(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

''(2) assistance is sought in a foreign country in connection with a case under this title;

''(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

''(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

''(c) This chapter does not apply to—

''(1) a proceeding concerning an entity identified by exclusion in subsection 109(b);

''(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

''(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970 (84 Stat. 1636 et seq.), a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

''SUBCHAPTER I—GENERAL PROVISIONS

''§ 1502. Definitions

''For the purposes of this chapter, the term—

''(1) 'debtor' means an entity that is the subject of a foreign proceeding;

''(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

''(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

''(4) 'foreign main proceeding' means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

''(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

''(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title; and

''(7) 'within the territorial jurisdiction of the United States' when used with reference to property of a debtor refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

''§ 1503. International obligations of the United States

''To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with 1 or more other countries, the requirements of the treaty or agreement prevail.

''§ 1504. Commencement of ancillary case

''A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

''§ 1505. Authorization to act in a foreign country

''A trustee or another entity, including an examiner, may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

''§ 1506. Public policy exception

''Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

''§ 1507. Additional assistance

''(a) Subject to the specific limitations under other provisions of this chapter, the court, upon recognition of a foreign proceeding, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

''(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

''(1) just treatment of all holders of claims against or interests in the debtor's property;

''(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

''(3) prevention of preferential or fraudulent dispositions of property of the debtor;

''(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

''(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

''§ 1508. Interpretation

''In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

''§ 1509. Right of direct access

''(a) A foreign representative is entitled to commence a case under section 1504 by filing a petition for recognition under section 1515, and upon recognition, to apply directly to other Federal and State courts for appropriate relief in those courts.

''(b) Upon recognition, and subject to section 1510, a foreign representative shall have the capacity to sue and be sued, and shall be subject to the laws of the United States of general applicability.

''(c) Subject to section 1510, a foreign representative is subject to laws of general application.

''(d) Recognition under this chapter is prerequisite to the granting of comity or cooperation to a foreign representative in any Federal or State court in the United States. Any request for comity or cooperation by a foreign representative in any court shall be accompanied by a sworn statement setting forth whether recognition under section 1515 has been sought and the status of any such petition.

''(e) Upon denial of recognition under this chapter, the court may issue appropriate orders necessary to prevent an attempt to obtain comity or cooperation from courts in the United States without such recognition.

''§ 1510. Limited jurisdiction

''The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

''§ 1511. Commencement of case under section 301 or 303

''(a) Upon recognition, a foreign representative may commence—

''(1) an involuntary case under section 303; or

''(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

''(b) The petition commencing a case under subsection (a) must be accompanied by a statement describing the petition for recognition and its current status. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

''§ 1512. Participation of a foreign representative in a case under this title

''Upon recognition of a foreign proceeding, the foreign representative in that proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

''§ 1513. Access of foreign creditors to a case under this title

''(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

''(b)(1) Subsection (a) does not change or codify law in effect on the date of enactment of this chapter as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under section 507 or 726 shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

''(2)(A) Subsection (a) and paragraph (1) do not change or codify law in effect on the date of enactment of this chapter as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

''(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

''§ 1514. Notification to foreign creditors concerning a case under this title

''(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

''(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other similar formality is required.

''(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

''(1) indicate the time period for filing proofs of claim and specify the place for their filing;

''(2) indicate whether secured creditors need to file their proofs of claim; and

''(3) contain any other information required to be included in such a notification to creditors pursuant to this title and the orders of the court.

''(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

''§ 1515. Application for recognition of a foreign proceeding

''(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

''(b) A petition for recognition shall be accompanied by—

''(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

''(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

''(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

''(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

''(d) The documents referred to in paragraphs (1) and (2) of subsection (b) must be translated into English. The court may require a translation into English of additional documents.

''§ 1516. Presumptions concerning recognition

''(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding as defined in section 101 and that the person or body is a foreign representative as defined in section 101, the court is entitled to so presume.

''(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

''(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

''§ 1517. Order recognizing a foreign proceeding

''(a) Subject to section 1506, after notice and a hearing an order recognizing a foreign proceeding shall be entered if—

''(1) the foreign proceeding is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

''(2) the foreign representative applying for recognition is a person or body as defined in section 101; and

''(3) the petition meets the requirements of section 1515.

''(b) The foreign proceeding shall be recognized—

''(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

''(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

''(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding shall constitute recognition under this chapter.

''(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the granting of recognition. The case under this chapter may be closed in the manner prescribed for a case under section 350.

''§ 1518. Subsequent information

''After the the petition for recognition of the foreign proceeding is filed, the foreign representative shall file with the court promptly a notice of change of status concerning—

''(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

''(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

''§ 1519. Relief that may be granted upon petition for recognition of a foreign proceeding

''(a) Beginning on the date on which a petition for recognition is filed and ending on the date on which the petition is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation, or otherwise in jeopardy; and

''(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

''(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is decided upon.

''(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

''§ 1520. Effects of recognition of a foreign main proceeding

''(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

''(1) section 362 applies with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

''(2) a transfer, an encumbrance, or any other disposition of an interest of the debtor in property within the territorial jurisdiction of the United States is restrained as and to the extent that is provided for property of an estate under sections 363, 549, and 552; and

''(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the powers of a trustee under section 549, subject to sections 363 and 552.

''(b) The scope, and the modification or termination, of the stay and restraints referred to in subsection (a) are subject to the exceptions and limitations provided in subsections (b), (c), and (d) of section 362, subsections (b) and (c) of section 363, and sections 552, 555 through 557, 559, and 560.

''(c) Subsection (a) does not affect the right to commence individual actions or proceedings in a foreign country to the extent necessary to preserve a claim against the debtor.

''(d) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

''§ 1521. Relief that may be granted upon recognition of a foreign proceeding

''(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

''(1) staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities to the extent the actions or proceedings have not been stayed under section 1520(a);

''(2) staying execution against the debtor's assets to the extent the execution has not been stayed under section 1520(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent that right has not been suspended under section 1520(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

''(6) extending relief granted under section 1519(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, if the court is satisfied that the interests of creditors in the United States are sufficiently protected.

''(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''§ 1522. Protection of creditors and other interested persons

''(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(2), to conditions that the court considers to be appropriate, including the giving of security or the filing of a bond.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate the relief referred to in subsection (b).

''(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

''§ 1523. Actions to avoid acts detrimental to creditors

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) In any case in which the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

''§ 1524. Intervention by a foreign representative

''Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

''§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

''(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

''§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

''(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

''(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

''§ 1527. Forms of cooperation

''Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

''(1) appointment of a person or body, including an examiner, to act at the direction of the court;

''(2) communication of information by any means considered appropriate by the court;

''(3) coordination of the administration and supervision of the debtor's assets and affairs;

''(4) approval or implementation of agreements concerning the coordination of proceedings; and

''(5) coordination of concurrent proceedings regarding the same debtor.

''SUBCHAPTER V—CONCURRENT PROCEEDINGS

''§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

''After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a), and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

''§ 1529. Coordination of a case under this title and a foreign proceeding

''In any case in which a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) If the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

''(A) any relief granted under sections 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

''(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 1520 does not apply.

''(2) If a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

''(A) any relief in effect under sections 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

''(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

''(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

''§ 1530. Coordination of more than 1 foreign proceeding

''In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

''(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

''(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

''§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

''In the absence of evidence to the contrary, recognition of a foreign main proceeding is for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

''§ 1532. Rule of payment in concurrent proceedings

''Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.''.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

''15. Ancillary and Other Cross-Border Cases ..... 1501''.

SEC. 802. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: '', and this chapter, sections 307, 304, 555 through 557, 559, and 560 apply in a case under chapter 15''; and

(2) by adding at the end the following:

''(j) Chapter 15 applies only in a case under such chapter, except that—

''(1) sections 1513 and 1514 apply in all cases under this title; and

''(2) section 1505 applies to trustees and to any other entity (including an examiner) authorized by the court under chapter 7, 11, or 12, to debtors in possession under chapter 11 or 12, and to debtors under chapter 9 who are authorized to act under section 1505.''.

(b) DEFINITIONS.—Paragraphs (23) and (24) of section 101 of title 11, United States Code, are amended to read as follows:

''(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

''(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;''.

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking ''and'' at the end;

(B) in subparagraph (O), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.''.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c)(1) of title 28, United States Code, is amended by striking ''Nothing in'' and inserting ''Except with respect to a case under chapter 15 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by inserting ''15,'' after ''chapter''.

SEC. 803. CLAIMS RELATING TO INSURANCE DEPOSITS IN CASES ANCILLARY TO FOREIGN PROCEEDINGS.

Section 304 of title 11, United States Code, is amended to read as follows:

''§ 304. Cases ancillary to foreign proceedings

''(a) For purposes of this section—

''(1) the term 'domestic insurance company' means a domestic insurance company, as such term is used in section 109(b)(2);

''(2) the term 'foreign insurance company' means a foreign insurance company, as such term is used in section 109(b)(3);

''(3) the term 'United States claimant' means a beneficiary of any deposit referred to in subsection (b) or any multibeneficiary trust referred to in subsection (b);

''(4) the term 'United States creditor' means, with respect to a foreign insurance company—

''(i) a United States claimant; or

''(ii) any business entity that operates in the United States and that is a creditor; and

''(5) the term 'United States policyholder' means a holder of an insurance policy issued in the United States.

''(b) The court may not grant relief under chapter 15 of this title with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.''.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. BANKRUPTCY CODE AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking ''means a contract'' and inserting ''means—

''(A) a contract'';

(ii) by striking '', or any combination thereof or option thereon;'' and inserting '', or any other similar agreement;''; and

(iii) by adding at the end the following:

''(B) a combination of agreements or transactions referred to in subparagraphs (A) and (C);

''(C) an option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

''(D) a master netting agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master netting agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master netting agreement that is referred to in subparagraph (A), (B) or (C); or

''(E) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract, option, agreement, or transaction referred to in subparagraph (A), (B), (C), or (D), but not to exceed the actual value of such contract, option, agreement, or transaction on the date of the filing of the petition;'';

(B) by striking paragraph (47) and inserting the following:

''(47) 'repurchase agreement' and 'reverse repurchase agreement'—

''(A) mean—

''(i) an agreement, including related terms, which provides for the transfer of—

''(I) a certificate of deposit, mortgage related security (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loan, interest in a mortgage related security or mortgage loan, eligible bankers' acceptance, or qualified foreign government security (defined for purposes of this paragraph to mean a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development); or

''(II) a security that is a direct obligation of, or that is fully guaranteed by, the United States or an agency of the United States against the transfer of funds by the transferee of such certificate of deposit, eligible bankers' acceptance, security, loan, or interest;

with a simultaneous agreement by such transferee to transfer to the transferor thereof a certificate of deposit, eligible bankers' acceptance, security, loan, or interest of the kind described in subclause (I) or (II), at a date certain that is not later than 1 year after the date of the transferor's transfer or on demand, against the transfer of funds;

''(ii) a combination of agreements or transactions referred to in clauses (i) and (iii);

''(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii); or

''(iv) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a repurchase agreement under this subparagraph, except that such master netting agreement shall be considered to be a repurchase agreement under this subparagraph only with respect to each agreement or transaction under such master netting agreement that is referred to in clause (i), (ii), or (iii); or

''(v) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in clause (i), (ii), (iii), or (iv), but not to exceed the actual value of such contract on the date of the filing of the petition; and

''(B) do not include a repurchase obligation under a participation in a commercial mortgage loan;'';

(C) in paragraph (48) by inserting '', or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission'' after ''1934''; and

(D) by striking paragraph (53B) and inserting the following:

''(53B) 'swap agreement'—

''(A) means—

''(i) an agreement, including the terms and conditions incorporated by reference in such agreement, that is—

''(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

''(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

''(III) a currency swap, option, future, or forward agreement;

''(IV) an equity index or an equity swap, option, future, or forward agreement;

''(V) a debt index or a debt swap, option, future, or forward agreement;

''(VI) a credit spread or a credit swap, option, future, or forward agreement; or

''(VII) a commodity index or a commodity swap, option, future, or forward agreement;

''(ii) an agreement or transaction that is similar to an agreement or transaction referred to in clause (i) that—

''(I) is currently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference therein); and

''(II) is a forward, swap, future, or option on a rate, currency, commodity, equity security, or other equity instrument, on a debt security or other debt instrument, or on an economic index or measure of economic risk or value;

''(iii) a combination of agreements or transactions referred to in clauses (i) and (ii);

''(iv) an option to enter into an agreement or transaction referred to in this subparagraph;

''(v) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to such master netting agreement and without regard to whether such master netting agreement contains an agreement or transaction described in any such clause, but only with respect to each agreement or transaction referred to in any such clause that is under such master netting agreement; except that

''(B) the definition under subparagraph (A) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, and the regulations prescribed by the Securities and Exchange Commission or the Commodity Futures Trading Commission.'';

(2) in section 741, by striking paragraph (7) and inserting the following:

''(7) 'securities contract'—

''(A) means—

''(i) a contract for the purchase, sale, or loan of a security, a mortgage loan or an interest in a mortgage loan, a group or index of securities, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any of the foregoing;

''(ii) an option entered into on a national securities exchange relating to foreign currencies;

''(iii) the guarantee by or to a securities clearing agency of a settlement of cash, securities, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any of the foregoing;

''(iv) a margin loan;

''(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

''(vi) a combination of the agreements or transactions referred to in this subparagraph;

''(vii) an option to enter into an agreement or transaction referred to in this subparagraph;

''(viii) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master netting agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master netting agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

''(ix) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in this subparagraph, but not to exceed the actual value of such contract on the date of the filing of the petition; and

''(B) does not include a purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;''; and

(3) in section 761(4)—

(A) by striking ''or'' at the end of subparagraph (D);

(B) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

''(G) a combination of the agreements or transactions referred to in this paragraph;

''(H) an option to enter into an agreement or transaction referred to in this paragraph;

''(I) a master netting agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that such master netting agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under such master netting agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

''(J) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in this paragraph, but not to exceed the actual value of such contract on the date of the filing of the petition.''.

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

''(22) 'financial institution' means—

''(A)(i) a Federal reserve bank, or an entity that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity; and

''(ii) if such Federal reserve bank, receiver, or conservator or entity is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741, such customer; or

''(B) in connection with a securities contract, as defined in section 741 of this title, an investment company registered under the Investment Company Act of 1940;'';

(2) by inserting after paragraph (22) the following:

''(22A) 'financial participant' means an entity that is a party to a securities contract, commodity contract or forward contract, or on the date of the filing of the petition, has a commodity contract (as defined in section 761) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in any such agreement or transaction with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period;''; and

(3) by striking paragraph (26) and inserting the following:

''(26) 'forward contract merchant' means a Federal reserve bank, or an entity, the business of which consists in whole or in part of entering into forward contracts as or with merchants or in a commodity, as defined or in section 761, or any similar good, article, service, right, or interest that is presently or in the future becomes the subject of dealing or in the forward contract trade;''.

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

''(38A) the term 'master netting agreement'—

''(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or closeout, under or in connection with 1 or more contracts that are described in any 1 or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to 1 or more of the foregoing; except that

''(B) if a master netting agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), the master netting agreement shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any 1 or more of the paragraphs (1) through (5) of section 561(a);

''(38B) the term 'master netting agreement participant' means an entity that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;''.

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by section 718 of this Act, is amended—

(A) in paragraph (6), by inserting '', pledged to, and under the control of,'' after ''held by'';

(B) in paragraph (7), by inserting '', pledged to, and under the control of,'' after ''held by'';

(C) by striking paragraph (17) and inserting the following:

''(17) under subsection (a), of the setoff by a swap participant of a mutual debt and claim under or in connection with a swap agreement that constitutes the setoff of a claim against the debtor for a payment or transfer due from the debtor under or in connection with a swap agreement against a payment due to the debtor from the swap participant under or in connection with a swap agreement or against cash, securities, or other property held by, pledged to, and under the control of, or due from such swap participant to guarantee, secure, or settle a swap agreement;'';

(D) in paragraph (26), by striking ''or'' at the end;

(E) in paragraph (27), by striking the period at the end and inserting ''; or''; and

(F) by inserting after paragraph (27) the following:

''(28) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with 1 or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged or and under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue.''.

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by section 432(2) of this Act, is amended by adding at the end the following:

''(*l*) LIMITATION.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), or (17) of subsection (b) shall not be stayed by an order of a court or administrative agency in any proceeding under this title.''.

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311 (104 Stat. 267 et seq.))—

(A) by striking ''under a swap agreement''; and

(B) by striking ''in connection with a swap agreement'' and inserting ''under or in connection with any swap agreement''; and

(2) by inserting before subsection (i) (as redesignated by section 407 of this Act) the following new subsection:

''(h) Notwithstanding sections 544, 545, 547, 548(a)(2)(B), and 548(b), the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement (except under section 548(a)(1)(A)).''.

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking ''and'';

(2) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.''.

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract'';

and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract'';

and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement'';

and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting following:

''§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement'';

(2) in the first sentence, by striking ''termination of a swap agreement'' and inserting ''liquidation, termination, or acceleration of a swap agreement''; and

(3) by striking ''in connection with any swap agreement'' and inserting ''in connection with the termination, liquidation, or acceleration of a swap agreement''.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—Title 11, United States Code, is amended by inserting after section 560 the following new section:

''§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts

''(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts or other transfer obligations arising under or in connection with 1 or more (or the termination, liquidation, or acceleration of 1 or more)—

''(1) securities contracts, as defined in section 741(7);

''(2) commodity contracts, as defined in section 761(4);

''(3) forward contracts;

''(4) repurchase agreements;

''(5) swap agreements; or

''(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

''(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

''(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7 of this title—

''(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a), except to the extent that the party has no positive net equity in the commodity accounts at the debtor, as calculated under subchapter IV; and

''(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor against any claim arising under, or in connection with, other instruments, contracts, or agreements referred to in subsection (a).

''(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.''.

(*l*) ANCILLARY PROCEEDINGS.—Section 304 of title 11, United States Code, is amended by adding at the end the following:

''(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case ancillary to a foreign proceeding under this section or any other section of this title, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms—

''(1) shall not be stayed or otherwise limited by—

''(A) operation of any provision of this title; or

''(B) order of a court in any case under this title;

''(2) shall limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11; and

''(3) shall not be limited based on the presence or absence of assets of the debtor in the United States.''.

(m) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

''§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(n) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

''§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, financial participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(o) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(3)(C), by inserting ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(19), 555, 556, 559, or 560)'' before the period; and

(2) in subsection (b)(1), by striking ''362(b)(14),'' and inserting ''362(b)(17), 362(b)(19), 555, 556, 559, 560,''.

(p) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking ''financial institutions,'' each place such term appears and inserting ''financial institution, financial participant'';

(2) in section 546(e), by inserting ''financial participant'' after ''financial institution,'';

(3) in section 548(d)(2)(B), by inserting ''financial participant'' after ''financial institution,'';

(4) in section 555—

(A) by inserting ''financial participant'' after ''financial institution,''; and

(B) by inserting before the period '', a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice''; and

(5) in section 556, by inserting '', financial participant'' after ''commodity broker''.

(q) CONFORMING AMENDMENTS.—Title 11 of the United States Code is amended—

(1) in the table of sections for chapter 5—

(A) by striking the items relating to sections 555 and 556 and inserting the following:

''555. Contractual right to liquidate, terminate, or accelerate a securities contract.

''556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.'';

(B) by striking the items relating to sections 559 and 560 and inserting the following:

''559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

''560. Contractual right to liquidate, terminate, or accelerate a swap agreement.'';

and

(C) by adding after the item relating to section 560 the following:

''561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts.'';

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

''767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.'';

and

(B) by inserting after the item relating to section 752 the following:

''753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.''.

SEC. 902. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561 the following:

''§ 562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements

''If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761) repurchase agreement, or master netting agreement under section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

''(1) the date of such rejection; or

''(2) the date of such liquidation, termination, or acceleration.''; and

(2) in the table of sections for chapter 5 by inserting after the item relating to section 561 the following:

''562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.''.

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(g)''; and

(2) by adding at the end the following:

''(2) A claim for damages calculated in accordance with section 561 shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) or (e) of this section, as if such claim had arisen before the date of the filing of the petition.''.

SEC. 903. ASSET-BACKED SECURITIZATIONS.

Section 541 of title 11, United States Code, is amended—

(1) in subsection (b), by striking ''or'' at the end of paragraph (4);

(2) by redesignating paragraph (5) of subsection (b) as paragraph (6);

(3) by inserting after paragraph (4) of subsection (b) the following new paragraph:

''(5) any eligible asset (or proceeds thereof), to the extent that such eligible asset was transferred by the debtor, before the date of commencement of the case, to an eligible entity in connection with an asset-backed securitization, except to the extent that such asset (or proceeds or value thereof) may be recovered by the trustee under section 550 by virtue of avoidance under section 548(a); or''; and

(4) by adding at the end the following new subsection:

''(e) For purposes of this section, the following definitions shall apply:

''(1) The term 'asset-backed securitization' means a transaction in which eligible assets transferred to an eligible entity are used as the source of payment on securities, the most senior of which are rated investment grade by 1 or more nationally recognized securities rating organizations, issued by an issuer.

''(2) The term 'eligible asset' means—

''(A) financial assets (including interests therein and proceeds thereof), either fixed or revolving, including residential and commercial mortgage loans, consumer receivables, trade receivables, and lease receivables, that, by their terms, convert into cash within a finite time period, plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders;

''(B) cash; and

''(C) securities.

''(3) The term 'eligible entity' means—

''(A) an issuer; or

''(B) a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and transferring eligible assets directly or indirectly to an issuer and taking actions ancillary thereto.

''(4) The term 'issuer' means a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and holding eligible assets, issuing securities backed by eligible assets, and taking actions ancillary thereto.

''(5) The term 'transferred' means the debtor, under a written agreement, represented and warranted that eligible assets were sold, contributed, or otherwise conveyed with the intention of removing them from the estate of the debtor pursuant to subsection (b)(5), irrespective, without limitation of—

''(A) whether the debtor directly or indirectly obtained or held an interest in the issuer or in any securities issued by the issuer;

''(B) whether the debtor had an obligation to repurchase or to service or supervise the servicing of all or any portion of such eligible assets; or

''(C) the characterization of such sale, contribution, or other conveyance for tax, accounting, regulatory reporting, or other purposes.''.

SEC. 904. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply with respect to cases commenced or appointments made under any Federal or State law after the date of enactment of this Act, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

TITLE X—PROTECTION OF FAMILY FARMERS

SEC. 1001. REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), and amended by this Act, is reenacted.

(2) EFFECTIVE DATE.—Subsection (a) shall take effect on April 1, 1999.

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 1002. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, is amended by adding at the end the following:

''(4) The dollar amount in section 101(18) shall be adjusted at the same times and in the same manner as the dollar amounts in paragraph (1) of this subsection, beginning with the adjustment to be made on April 1, 2001.''.

SEC. 1003. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking ''the taxable year preceding the taxable year'' and inserting ''at least 1 of the 3 calendar years preceding the year''.

SEC. 1004. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

''(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

''(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

''(B) the holder of a particular claim agrees to a different treatment of that claim; and''.

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(d) of title 11, United States Code, is amended by striking ''a State or local governmental unit'' and inserting ''any governmental unit''.

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 1004(a) of this Act, is amended—

(1) by redesignating paragraph (27A) as paragraph (27C); and

(2) inserting after paragraph (27) the following:

''(27A) 'health care business'—

''(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

''(i) the diagnosis or treatment of injury, deformity, or disease; and

''(ii) surgical, drug treatment, psychiatric or obstetric care; and

''(B) includes—

''(i) any—

''(I) general or specialized hospital;

''(II) ancillary ambulatory, emergency, or surgical treatment facility;

''(III) hospice;

''(IV) health maintenance organization;

''(V) home health agency; and

''(VI) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), (IV), or (V); and

''(ii) any long-term care facility, including any—

''(I) skilled nursing facility;

''(II) intermediate care facility;

''(III) assisted living facility;

''(IV) home for the aged;

''(V) domiciliary care facility; and

''(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;''.

(b) HEALTH MAINTENANCE ORGANIZATION DEFINED.—Section 101 of title 11, United States Code, as amended by subsection (a), is amended by inserting after paragraph (27A) the following:

''(27B) 'health maintenance organization' means any person that undertakes to provide or arrange for basic health care services through an organized system that—

''(A)(i) combines the delivery and financing of health care to enrollees; and

''(ii)(I) provides—

''(aa) physician services directly through physicians or 1 or more groups of physicians; and

''(bb) basic health care services directly or under a contractual arrangement; and

''(II) if reasonable and appropriate, provides physician services and basic health care services through arrangements other than the arrangements referred to in clause (i); and

''(B) includes any organization described in subparagraph (A) that provides, or arranges for, health care services on a prepayment or other financial basis;''.

(c) PATIENT.—Section 101 of title 11, United States Code, as amended by subsection (b), is amended by inserting after paragraph (40) the following:

''(40A) 'patient' means any person who obtains or receives services from a health care business;''.

(d) PATIENT RECORDS.—Section 101 of title 11, United States Code, as amended by subsection (c), is amended by inserting after paragraph (40A) the following:

''(40B) 'patient records' means any written document relating to a patient or record recorded in a magnetic, optical, or other form of electronic medium;''.

SEC. 1102. DISPOSAL OF PATIENT RECORDS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

''§ 351. Disposal of patient records

''If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

''(1) The trustee shall mail, by certified mail, a written request to each appropriate Federal or State agency to request permission from that agency to deposit the patient records with that agency.

''(2) If no appropriate Federal or State agency agrees to permit the deposit of patient records referred to in paragraph (1) by the date that is 60 days after the trustee mails a written request under that paragraph, the trustee shall—

''(A) publish notice, in 1 or more appropriate newspapers, that if those patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 60 days after the date of that notification, the trustee will destroy the patient records; and

''(B) during the 60-day period described in subparagraph (A), the trustee shall attempt to notify directly each patient that is the subject of the patient records concerning the patient records by mailing to the last known address of that patient an appropriate notice regarding the claiming or disposing of patient records.

''(3) If, after providing the notification under paragraph (2), patient records are not claimed during the 60-day period described in paragraph (2)(A) or in any case in which a notice is mailed under paragraph (2)(B), during the 90-day period beginning on the date on which the notice is mailed, by a patient or insurance provider in accordance with that paragraph, the trustee shall destroy those records by—

''(A) if the records are written, shredding or burning the records; or

''(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 350 the following:

''351. Disposal of patient records.''.

SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(7) the actual, necessary costs and expenses of closing a health care business incurred by a trustee, including any cost or expense incurred—

''(A) in disposing of patient records in accordance with section 351; or

''(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business.''.

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) IN GENERAL.—

(1) APPOINTMENT OF OMBUDSMAN.—Subchapter II of chapter 3 of title 11, United States Code, is amended by inserting after section 331 the following:

''§ 332. Appointment of ombudsman

''(a) Not later than 30 days after a case is commenced by a health care business under chapter 7, 9, or 11, the court shall appoint an ombudsman to represent the interests of the patients of the health care business.

''(b) An ombudsman appointed under subsection (a) shall—

''(1) monitor the quality of patient care, to the extent necessary under the circumstances, including reviewing records and interviewing patients and physicians;

''(2) not later than 60 days after the date of appointment, and not less frequently than every 60 days thereafter, report to the court, at a hearing or in writing, regarding the quality of patient care at the health care business involved; and

''(3) if the ombudsman determines that the quality of patient care is declining significantly or is otherwise being materially compromised, notify the court by motion or written report, with notice to appropriate parties in interest, immediately upon making that determination.

''(c) An ombudsman shall maintain any information obtained by the ombudsman under this section that relates to patients (including information relating to patient records) as confidential information.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 331 the following:

''332. Appointment of ombudsman.''.

(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter proceeding subparagraph (A), by inserting ''an ombudsman appointed under section 331, or'' before ''a professional person''; and

(2) in subparagraph (A), by inserting ''ombudsman,'' before ''professional person''.

SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by section 219 of this Act, is amended—

(1) in paragraph (9), by striking ''and'' at the end;

(2) in paragraph (10), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(11) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

''(A) is in the vicinity of the health care business that is closing;

''(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

''(C) maintains a reasonable quality of care.''.

(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, is amended by striking ''and 704(9)'' and inserting ''704(9), and 704(10)''.

TITLE XII—TECHNICAL AMENDMENTS

SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by section 1101 of this Act, is amended—

(1) by striking ''In this title—'' and inserting ''In this title:'';

(2) in each paragraph, by inserting ''The term'' after the paragraph designation;

(3) in paragraph (35)(B), by striking ''paragraphs (21B) and (33)(A)'' and inserting ''paragraphs (23) and (35)'';

(4) in each of paragraphs (35A) and (38), by striking ''; and'' at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting ''who is not a family farmer'' after ''debtor'' the first place it appears; and

(B) by striking ''thereto having aggregate'' and all that follows through the end of the paragraph;

(6) by striking paragraph (54) and inserting the following:

''(54) The term 'transfer' means—

''(A) the creation of a lien;

''(B) the retention of title as a security interest;

''(C) the foreclosure of a debtor's equity of redemption; or

''(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

''(i) property; or

''(ii) an interest in property;'';

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (55) (including paragraph (54), as amended by paragraph (6) of this section), by striking the semicolon at the end and inserting a period; and

(8) by redesignating paragraphs (4) through (55), including paragraph (54), as amended by paragraph (6) of this section, in entirely numerical sequence.

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting ''522(f)(3), 707(b)(5),'' after ''522(d),'' each place it appears.

SEC. 1203. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking ''922'' and all

that follows through ''or'', and inserting ''922, 1201, or''.

SEC. 1204. TECHNICAL AMENDMENTS.

Title 11 of the United States Code is amended—

(1) in section 109(b)(2), by striking ''subsection (c) or (d) of'';

(2) in section 541(b)(4), by adding ''or'' at the end; and

(3) in section 552(b)(1), by striking ''product'' each place it appears and inserting ''products''.

SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(3) of title 11, United States Code, is amended by striking ''attorney's'' and inserting ''attorneys''.

SEC. 1206. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting ''on a fixed or percentage fee basis,'' after ''hourly basis,''.

SEC. 1207. SPECIAL TAX PROVISIONS.

Section 346(g)(1)(C) of title 11, United States Code, is amended by striking '', except'' and all that follows through ''1986''.

SEC. 1208. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting ''of the estate'' after ''property'' the first place it appears.

SEC. 1209. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting ''subparagraph (A), (B), (C), (D), or (E) of'' before ''paragraph (3)''.

SEC. 1210. PRIORITIES.

Section 507(a) of title 11, United States Code, as amended by sections 211 and 229 of this Act, is amended—

(1) in paragraph (4)(B), by striking the semicolon at the end and inserting a period; and

(2) in paragraph (8), by inserting ''unsecured'' after ''allowed''.

SEC. 1211. EXEMPTIONS.

Section 522(g)(2) of title 11, United States Code, as amended by section 311 of this Act, is amended by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.

SEC. 1212. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by section 229 of this Act, is amended—

(1) as amended by section 304(e) of Public Law 103–394 (108 Stat. 4133), in paragraph (15), by transferring such paragraph so as to insert it after paragraph (14) of subsection (a);

(2) in subsection (a)—

(A) in paragraph (3), by striking ''or (6)'' each place it appears and inserting ''(6), or (15)'';

(B) in paragraph (9), by striking ''motor vehicle or vessel'' and inserting ''motor vehicle, vessel, or aircraft''; and

(C) in paragraph (15), as so redesignated by paragraph (1) of this subsection, by inserting ''to a spouse, former spouse, or child of the debtor and'' after ''(15)''; and

(3) in subsection (e), by striking ''a insured'' and inserting ''an insured''.

SEC. 1213. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking ''section 523'' and all that follows through ''or that'' and inserting ''section 523, 1228(a)(1), or 1328(a)(1), or that''.

SEC. 1214. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting ''student'' before ''grant'' the second place it appears; and

(2) in paragraph (2), by striking ''the program operated under part B, D, or E of'' and inserting ''any program operated under''.

SEC. 1215. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting ''365 or'' before ''542''.

SEC. 1216. PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, is amended—

(1) in subsection (b), by striking ''subsection (c)'' and inserting ''subsections (c) and (i)''; and

(2) by adding at the end the following:

''(i) If the trustee avoids under subsection (b) a security interest given between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such security interest shall be considered to be avoided under this section only with respect to the creditor that is an insider.''.

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that pending or commenced on or after the date of enactment of this Act.

SEC. 1217. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting ''an interest in'' after ''transfer of'';

(2) by striking ''such property'' and inserting ''such real property''; and

(3) by striking ''the interest'' and inserting ''such interest''.

SEC. 1218. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.

SEC. 1219. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, as amended by section 901(k) of this Act, is amended by inserting ''1123(d),'' after ''1123(b),''.

SEC. 1220. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. 1221. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. 1222. DISCHARGE UNDER CHAPTER 12.

Subsections (a) and (c) of section 1228 of title 11, United States Code, are amended by striking ''1222(b)(10)'' each place it appears and inserting ''1222(b)(9)''.

SEC. 1223. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking ''made under this subsection'' and inserting ''made under subsection (c)''; and

(2) by striking ''This subsection'' and inserting ''Subsection (c) and this subsection''.

SEC. 1224. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''(1) the term'' before ''bankruptcy''; and

(B) by striking the period at the end and inserting ''; and''; and

(2) in the second undesignated paragraph—

(A) by inserting ''(2) the term'' before ''document''; and

(B) by striking ''this title'' and inserting ''title 11''.

SEC. 1225. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended by striking ''only'' and all that follows through the end of the subsection and inserting ''only—

''(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

''(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.''.

(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by section 212 of this Act, is amended by adding at the end the following:

''(15) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.''.

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, is amended by adding at the end the following:

''(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.''.

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, except that the court shall not confirm a plan under chapter 11 of this title without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the court in which a case under chapter 11 is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. 1226. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''30''.

SEC. 1227. EXTENSIONS.

Section 302(d)(3) of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended—

(1) in subparagraph (A), in the matter following clause (ii), by striking ''or October 1, 2002, whichever occurs first''; and

(2) in subparagraph (F)—

(A) in clause (i)—

(i) in subclause (II), by striking ''or October 1, 2002, whichever occurs first''; and

(ii) in the matter following subclause (II), by striking ''October 1, 2003, or''; and

(B) in clause (ii), in the matter following subclause (II)—

(i) by striking ''before October 1, 2003, or''; and

(ii) by striking '', whichever occurs first''.

SEC. 1228. BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the ''Bankruptcy Judgeship Act of 1999''.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENTS.—The following judgeship positions shall be filled in the manner

prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judgeship for the eastern district of California.

(B) Four additional bankruptcy judgeships for the central district of California.

(C) One additional bankruptcy judgeship for the southern district of Florida.

(D) Two additional bankruptcy judgeships for the district of Maryland.

(E) One additional bankruptcy judgeship for the eastern district of Michigan.

(F) One additional bankruptcy judgeship for the southern district of Mississippi.

(G) One additional bankruptcy judgeship for the district of New Jersey.

(H) One additional bankruptcy judgeship for the eastern district of New York.

(I) One additional bankruptcy judgeship for the northern district of New York.

(J) One additional bankruptcy judgeship for the southern district of New York.

(K) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(L) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(M) One additional bankruptcy judgeship for the western district of Tennessee.

(N) One additional bankruptcy judgeship for the eastern district of Virginia.

(2) VACANCIES.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) that—

(A) results from the death, retirement, resignation, or removal of a bankruptcy judge; and

(B) occurs 5 years or more after the appointment date of a bankruptcy judge appointed under paragraph (1);

shall not be filled.

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary bankruptcy judgeship positions authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, the district of South Carolina, and the eastern district of Tennessee under section 3(a) (1), (3), (7), (8), and (9) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring—

(A) 8 years or more after November 8, 1993, with respect to the northern district of Alabama;

(B) 10 years or more after October 28, 1993, with respect to the district of Delaware;

(C) 8 years or more after August 29, 1994, with respect to the district of Puerto Rico;

(D) 8 years or more after June 27, 1994, with respect to the district of South Carolina; and

(E) 8 years or more after November 23, 1993, with respect to the eastern district of Tennessee.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 remain applicable to such temporary judgeship positions.

(d) TECHNICAL AMENDMENT.—The first sentence of section 152(a)(1) of title 28, United States Code, is amended to read as follows: ''Each bankruptcy judge to be appointed for a judicial district as provided in paragraph (2) shall be appointed by the United States court of appeals for the circuit in which such district is located.''.

(e) TRAVEL EXPENSES OF BANKRUPTCY JUDGES.—Section 156 of title 28, United States Code, is amended by adding at the end the following:

''(g)(1) In this subsection, the term 'travel expenses'—

''(A) means the expenses incurred by a bankruptcy judge for travel that is not directly related to any case assigned to such bankruptcy judge; and

''(B) shall not include the travel expenses of a bankruptcy judge if—

''(i) the payment for the travel expenses is paid by such bankruptcy judge from the personal funds of such bankruptcy judge; and

''(ii) such bankruptcy judge does not receive funds (including reimbursement) from the United States or any other person or entity for the payment of such travel expenses.

''(2) Each bankruptcy judge shall annually submit the information required under paragraph (3) to the chief bankruptcy judge for the district in which the bankruptcy judge is assigned.

''(3)(A) Each chief bankruptcy judge shall submit an annual report to the Director of the Administrative Office of the United States Courts on the travel expenses of each bankruptcy judge assigned to the applicable district (including the travel expenses of the chief bankruptcy judge of such district).

''(B) The annual report under this paragraph shall include—

''(i) the travel expenses of each bankruptcy judge, with the name of the bankruptcy judge to whom the travel expenses apply;

''(ii) a description of the subject matter and purpose of the travel relating to each travel expense identified under clause (i), with the name of the bankruptcy judge to whom the travel applies; and

''(iii) the number of days of each travel described under clause (ii), with the name of the bankruptcy judge to whom the travel applies.

''(4)(A) The Director of the Administrative Office of the United States Courts shall—

''(i) consolidate the reports submitted under paragraph (3) into a single report; and

''(ii) annually submit such consolidated report to Congress.

''(B) The consolidated report submitted under this paragraph shall include the specific information required under paragraph (3)(B), including the name of each bankruptcy judge with respect to clauses (i), (ii), and (iii) of paragraph (3)(B).''.

TITLE XIII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1301. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided otherwise in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

SUMMARY OF MAJOR DIFFERENCES BETWEEN THE GRASSLEY/TORRICELLI BANKRUPTCY REFORM BILL AND THE H.R. 3150 CONFERENCE REPORT

MEANS TEST

The new Senate bill gives bankruptcy judges greater discretion in considering whether to transfer a debtor from Chapter 7 to Chapter 13.

The new Senate bill requires only a showing of ''special circumstances,'' rather than ''extraordinary circumstances,'' for Chapter 7 debtors with apparent repayment ability to avoid being transferred to Chapter 13.

A new Senate bill raises the minimum dollar amount from $5,000 to $15,000, with the effect that debtors with a marginal ability to repay won't be swept up by the means test.

CONSUMER PROTECTIONS

The new Senate bill requires the Attorney General and the FBI Director to designate one prosecutor and one agent in every district to investigate reaffirmation practices which violate current federal criminal laws, including the criminal laws under which Sears was prosecuted.

The new Senate bill specifically authorizes state attorneys general to enforce federal criminal laws against abusive reaffirmations, again including the criminal laws under which Sears was prosecuted.

The new Senate bill specifically authorizes state attorneys general to enforce state laws regarding unfair trade practices against creditors who deceive debtors into reaffirmation agreements, including the state laws under which Sears was prosecuted.

The new Senate bill drops a provision barring class action lawsuits for reaffirmation violations.

The new Senate bill reinserts a provision making it a violation of the automatic stay to threaten to file motions in order to coerce reaffirmations.

The new Senate bill reinserts a provision penalizing creditors who fail to acknowledge payments received in Chapter 13 plans and, thereafter, seek a ''double payment.''

GREATER PROTECTIONS FOR CHILD SUPPORT

The new Senate bill requires bankruptcy trustees to notify appropriate state agencies of a debtor's location and specific address, if the debtor owes child support. This effectively turns bankruptcy courts into locator services to help track down ''deadbeat parents.''

The new Senate bill requires bankruptcy trustees to notify child support claimants of their right to enforce payment through an appropriate state agency.

The new Senate bill permits state agencies which enforce payment of child support obligations to request that creditors who hold reaffirmed or non-discharged debts to provide the last known address and telephone number of the debtor. Again, this effectively turns bankruptcy courts into locator services which will help to track down ''deadbeat parents.''

The new Senate bill provides that debts incurred to pay non-dischargeable debts will continue to be dischargeable if the debtor owes child support or alimony.

FEWER NON-DISCHARGEABLE DEBTS

The new Senate bill raises the dollar limits on cash advances on the eve of bankruptcy, presumed non-dischargeable from $250 to $750.

The new Senate bill shortens the time during which purchases and cash advances are presumed non-dischargeable from 90 days to 70 days.

• Mr. BIDEN. Mr. President, I am pleased to join today with Senator GRASSLEY and Senator TORRICELLI, along with our colleague from the Judiciary Committee, Senator SESSIONS, to introduce legislation to reform our nation's bankruptcy laws.

In a time of rising incomes, historic levels of job creation, and strong economic growth, America has seen an unexpected rise in the number of personal bankruptcies. Last year, 1.4 million Americans filed for personal bankruptcy, and we expect that number to grow again this year, as it has for the last 4 years. This means more people are filing for bankruptcy now than during the worst years of job losses in the 1980's.

Bankruptcy laws give Americans a very special kind of protection from the worst form of financial distress. As a nation of immigrants, our country is

the very embodiment of the idea of a fresh start. Bankruptcy protection was considered so important that it was among the specific powers granted to Congress in our Constitution. That is why we provide in law that no one should have to shoulder an unsustainable burden of debt, a burden that can hurt us all by threatening the weakest links in our society.

But at the same time, Mr. President, our nation is founded on the idea of personal responsibility, the only foundation that can sustain and protect our freedom. Until recently, bankruptcy was considered a stain on one's personal reputation, an admission of failure, something to be avoided at all costs. While we may sympathize with the special circumstances that can throw an individual into unexpected hardship, Americans expect that those who have the resources must meet their financial obligations.

But the explosion in the number of personal bankruptcies, in a time of economic prosperity, raises serious questions. Mr. President, every time one of us fails to pay a legitimate debt, the rest of us pay a little more, because of the higher interest rates lenders must charge to cover their loses. When the circumstances are unavoidable, and when it is clear that a fresh start is deserved, bankruptcy must be there for those who need it. But when those who have the ability to pay use the bankruptcy system to walk away from their debts, something is wrong.

It is now clear to most of us that our bankruptcy system—and the laws that guide it—are in serious need of reform. Last year, in the Senate, we passed a bipartisan bill by the nearly unanimous vote of 97 to 1 to fix the problems in our bankruptcy laws. While that proposal did not become law, we reached agreement that bankruptcy reform—done the right way—is something we all can support.

Working closely with his new ranking member, Senator TORRICELLI, Senator GRASSLEY has once again shown us the leadership on this issue that he provided last year. I believe that we have built a foundation in this bill for a reasonable approach, one that restores some of the balance that has been lost in recent years. To that end, this legislation assures that those who have the ability to pay will continue to meet their obligations, and that bankruptcy is not seen as a financial planning device, but the last resort for the most extraordinary circumstances.

At the same time, again with the help of Senator TORRICELLI we have gone a long way toward addressing the honest concerns that many of our colleagues have expressed about the needs of those, like single parents and those who receive child support, who deserve greater protection.

This is a tough balance to strike, and I will continue to work with Senator GRASSLEY, Senator TORRICELLIE, and Senator SESSIONS, and with our colleagues on the Judiciary Committee, to listen to the concerns of other Senators, to achieve the kind of consensus that we found here in the Senate last year.●

Mr. Mr. ROBERTS (for himself and Mr. BROWNBACK):

S. 626. A bill to provide from unfair interest and penalties on refunds retroactively ordered by the Federal Energy Regulatory Commission; to the Committee on Energy and Natural Resources.

KANSAS NATURAL GAS INDUSTRY

● Mr. ROBERTS. Mr. President, I rise today to introduce a bill of critical importance to the natural gas industry in Kansas.

Natural gas production is an important industry in Kansas, paying good wages to hard working Kansans and taxes to support county and state tax rolls. Kansas is a national leader in natural gas production, and we pipe our product all over the nation. It is an affordable, abundant and clean energy source. This bill will ensure that we can continue to produce this natural resource in Kansas.

This issue is complex, full of legalities and arcane federal policy. But I believe the crux of the matter will reverberate throughout the Congress.

The problem before us arises out of the system of federal price controls on natural gas. In 1974, natural gas producers were given permission to exceed the national ceiling rates for gas by the cost of any state or federal tax on production. In Kansas, one such tax was the ad valorem tax. In 1974, the Federal Power Commission issued Opinion 699–D, finding that the Kansas ad valorem tax was a production tax eligible for recovery. Kansas gas producers, like producers in other states, were allowed to exceed the national rates by the costs of a local production tax.

In 1978, Congress passed the Natural Gas Policy Act. That statute continued the practice of price controls on natural gas, but also codified prior practices that allowed natural gas producers to exceed price ceilings by the costs of production taxes. The newly created Federal Energy Regulatory Commission, the federal body charged with implementing federal policies in this field, continued the practice of allowing Kansas producers to recover the costs of the Kansas ad valorem tax. Business continued as it had since 1974.

This practice of adding on the Kansas ad valorem tax was challenged in 1983. The FERC responded with opinions in 1986 and again in 1987, stating that it is ''clear, beyond question,'' that the Kansas ad valorem tax is a tax on production and therefore, under law, eligible for recovery. Kansas producers had clear authority to recover the costs of the ad valorem tax.

What happened next is inexplicable. In 1988, the prior FERC decisions on the Kansas ad valorem tax were challenged in court. The D.C. Circuit Court remanded the issue to the FERC. In 1993, five years later, the FERC did the unthinkable. They overturned all their previous rulings in this matter and required Kansas natural gas producers to refund, plus interest, all ad valorem tax monies collected above the gas price ceilings from 1988 forward. The FERC wisely chose 1988 as the collection date based on the D.C. Circuit's decision date. Unfortunately, upon challenge in 1996, the D.C. Circuit extended the refund period to 1983. The result is an estimated $340 million liability due by every producer operating between the years 1983 and 1988.

What has occurred is an atrocious miscarriage of justice. Kansas natural gas producers, who in their business practices relied on the rules and followed the orders of the FERC, were subsequently told they had been breaking federal law since 1974, or for 19 years. They were then retroactively found to be liable for all of the collected tax funds back to 1983. In layman's terms, these producers are being held liable for following the orders of the FERC.

The FERC did not carry out its duties in a vacuum. Section 110 of the Natural Gas Policy Act clearly stated that production taxes could be added to the price of gas, even if the add-on exceeded national price ceilings. The NGPA report language went so far as to spell out what kind of taxes are production taxes, stating ''The term ''State severance tax'' is intended to be construed broadly. It includes any tax imposed upon mineral or natural resource production including an ad valorem tax. . .'' It is evident to me, and I hope to anyone reading this, that Congress included the words ''ad valorem'' tax for an explicit reason—because Congress intended that ad valorem taxes were to be included in the list of taxes eligible for recovery. I have all of these documents in my possession, and would be pleased to provide any of this information to my colleagues. Mr. President, we must remedy this situation. Before us are the citizens of Kansas, the natural gas producers, who for 19 years dutifully ran their businesses in compliance with federal law, and strictly followed the edicts of the Federal Energy Regulatory Commission. They had a right, indeed a responsibility, to rely on the FERC's orders. Today, they are being punished for following these very orders. The FERC's incompetence has caused these honest citizens to be treated as criminals. However, it is the incompetence of the FERC that is criminal.

Mr. President, I rise today to re-introduce legislation from the last Congress. This bill would repeal the most unjust aspect of this order. Requiring producers to refund these recovered taxes is bad enough. However, assessing an interest penalty on this refund order extends beyond the bounds of decency and fairness. The interest portion represents roughly two-thirds of the estimated $340 million cost to Kansas producers. While the FERC had the

opportunity to waive the interest portion, they refused to do so. This legislation is made necessary by the FERC's refusal to take any actions to mitigate this harsh, retroactive and unjust decision.

Mr. President, I will do everything in my power to push this issue through to resolution. I will continue my efforts to encourage the Senate Energy and Natural Resources Committee to hold hearings on this issue, so they may hear firsthand of the events that lead us where we find ourselves today. I want Congress to hear from the citizens of my state, the young and the old, those in business and those retired, those who have money, and those living on a fixed income, all of whom the FERC has ordered must pay refunds often ranging into the tens of thousands of dollars.

I also believe it is time for Congress to review the independence and power delegated to the Federal Energy Regulatory Commission. They are unaccountable for their actions, unwilling to accept responsibility and unmoved by the pleas of the stakeholders in this process. Congress entrusted oversight and administration of federal gas policy to the FERC. In this case, the FERC has failed to properly administer the law, and has exercised its authority in an egregious and inequitable manner inconsistent with congressional intent. Congress has a clear responsibility to intervene in this case.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 626

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIABILITY OF CERTAIN NATURAL GAS PRODUCERS.

The Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et seq.) is amended by adding at the end the following:

"SEC. 603. LIABILITY OF CERTAIN NATURAL GAS PRODUCERS.

''If the Commission orders any refund of any rate or charge made, demanded, or received for reimbursement of State ad valorem taxes in connection with the sale of natural gas before 1989, the refund shall be ordered to be made without interest or penalty of any kind.''.●

By Mr. ROCKFELLER (for himself, Ms. COLLINS, Mr. COCHRAN, Mr. CONRAD, Mr. WYDEN, and Mr. JEFFORDS):

S. 628. A bill to amend titles XVIII and XIX of the Social Security Act to expand and clarify the requirements regarding advance directives in order to ensure that an individual's health care decisions are complied with, and for other purposes; to the Committee on Finance.

ADVANCE PLANNING AND COMPASSIONATE CARE ACT OF 1999

● Mr. ROCKEFELLER. Mr. President, I am pleased to be introducing the ''Advance Planning and Compassionate Care Act of 1999'' with my colleague from Maine, Senator COLLINS. We introduce this legislation to ask Congress to take action that responds directly and humanely to the needs of the elderly and others during some of their most difficult and traumatic times of their lives. The time I refer to is the end-of-life.

Our perceptions of illness, end-of-life care, and death are changing in response to advances in medical technology, a shift from treating acute care illnesses to managing chronic care conditions, improvements in palliative care, and a greater respect for patient involvement and autonomy in end-of-life decisions.

Patients want to maintain a sense of control of their lives throughout their last days. But studies show that tremendous variation exists in the medical care that Medicare beneficiaries receive in the last few months of their lives. This sort of analysis highlights that patient preferences have little to do with the sort of care patients receive in their final months of life. Where you live determines the sort of medical care you will receive more so than what you might prefer. Our bill addresses this issue by calling for an evaluation of current standards of care and promoting better communication between health care providers and their patients.

Unfortunately, while people do worry about end-of-life issues, the truth is that patients, families, and physicians have difficulty talking about them. People have an endless list of reasons for not talking about end-of-life care, for not making decisions to prepare for it. Some are afraid of jinxing themselves by planning their end-of-life care, and many have faith that their families will know the right thing to do when the time comes.

Not talking about death does not stop it from occurring. We all know it is a natural, inevitable part of life. But by not talking about end-of-life care, we hamper our ability to learn about the options that are available to relieve suffering, promote personal choice, and obtain greater care and comfort in our final months.

End-of-life care is a major—and growing—issue in the future of health care. Unfortunately, in recent years, debates on end-of-life care have focused almost exclusively on the subject of physician-assisted suicide. Mr. President, I have spent considerable time delving into the concerns and dilemmas that face patients, their family members and their physicians when confronted with death or the possibility of dying. In almost all such difficult situations, people are not thinking about physician-assisted suicide. The needs and dilemmas that confront them have much more to do with the kind of care and information they need desperately.

The legislation we are introducing today builds on bipartisan legislation enacted in 1990, called the Patient Self-Determination Act. As a result of that bill, hospitals, skilled nursing facilities, home health agencies, hospice programs, and HMO's participating in the Medicaid and Medicare programs must provide every adult receiving medical care with written information concerning patient involvement in their own treatment decisions. The health care institutions must also document in the medical record whether the patient has an advance directive. In addition, States were required to write descriptions of their State laws concerning advance directives.

The first section of the Advance Planning and Compassionate Care Act instructs the Department of Health and Human Services to develop appropriate quality measures and models of care for persons with chronic, debilitating illnesses, including the very frail elderly who will comprise an increasing number of Medicare beneficiaries.

The second part of our bill directs the Secretary of Health and Human Services to advise Congress on an approach to adopting the provisions of the Uniform Health Care Decisions Act for Medicare beneficiaries. The Uniform Health Care Decisions Act was developed by the Uniform Law Commissioners, a group with representation from all States that has been in existence for over 100 years. The Uniform Health Care Decisions Act includes all the important components of model advance directive legislation. A great deal of legal effort went into its development, with input by all the States and approval by the American Bar Association. Medicare beneficiaries deserve a uniform approach to advance directives, especially since many move from one State to another while in the Medicare Program. The tremendous variation in State laws that currently exists only adds to the confusion of health care professionals and their patients.

The third section strengthens the previously enacted Patient Self Determination Act in the following ways:

First, it requires that every Medicare beneficiary have the opportunity to discuss health care decision-making issues with an appropriately trained professional, when he or she makes a request. This measure would help make sure that patients and their families have the ability to discuss and address concerns and issues relating to their care, including end-of-life care, with a trained professional. Many health care institutions already have teams of providers to address difficult health care decisions and some even mediate among patients, families, and providers. In smaller institutions, social workers, chaplains, nurses or other trained professionals could be made available for consultation.

Second, our bill requires that a person's advance directive be placed in a prominent part of the medical record. Often advance directives cannot even be found in the medical record, making

it more difficult for providers to respect patients' wishes. It is essential that an individual's advance directive be readily available and visible to anyone involved in their health care.

Third, it will assure that an advance directive valid in one State will be valid in another State. At present, portability of advance directives from State to State is not assured. Such portability can only be guaranteed through Federal legislation.

The fourth part of this legislation would encourage the development of models for end-of-life care for Medicare beneficiaries who do not qualify for the Medicare hospice benefit but still have chronic, debilitating and ultimately fatal illnesses. The tremendous advances in medicine and medical technology over the past 30 to 50 years have resulted in a greatly lengthened life expectancy for Americans, as well as vastly improved functioning and quality of life for the elderly and those with chronic disease. Many of these advances have been made possible by federally financed health care programs, such as the Medicare Program that assures access to high quality health care for all elderly Americans. Medicare has also funded much of the development of technology and a highly skilled physician workforce through support of medical education and academic medical centers. These advances have also created major dilemmas in addressing terminal or potentially terminal disease, as well as a sense of loss of control by many with terminal illness.

Mr. President, I am learning more and more about the importance of educating health care providers and the public that chronic, debilitating, terminal disease need not be associated with pain, major discomfort, and loss of control. We can control pain and treat depression, as well as the other causes of suffering during the dying process. We must now apply this knowledge to assure all Americans appropriate end-of-life care. And to make sure that Medicare beneficiaries are able to receive the most effective medicine to control their pain, Medicare's coverage rules would be expanded under our bill to include coverage for self-administered pain medications.

Mr. President, I realize that there is still a lot of work to be done. I believe our bill represents a significant step towards improving end-of-life care for Medicare beneficiaries. By advocating changes within the health care system, research community, and national policy, we reaffirm our commitment to quality patient care. In our legislation, we have set forth a broad framework to respond to many of the concerns facing people at the end-of-life. This legislation embodies the fundamental principle of the Patient Self-Determination Act—to involve patients in their own treatment decisions and to respect and follow their wishes when they are no longer capable of voicing them.

To conclude, I am proud to offer this legislation with Senator COLLINS. We hope consideration of this bill will be an opportunity to take notice of the many constructive steps that can be taken to address the needs of patients and family members grappling with great pain and medical difficulties. During this time when physician assisted suicide obtains so many headlines, we are eager to call on Congress to turn to the alternative ways of providing help and relief to seniors and other Americans who only are interested in such alternatives.●

● Ms. COLLINS. Mr. President, I am pleased to be joining my colleague from West Virginia, Senator ROCKEFELLER, in introducing the Advance Planning and Compassionate Care Act, which is intended to improve the way we care for people at the end of their lives.

Noted health economist Uwe Reinhardt once observed that ''Americans are the only people on earth who believe that death is negotiable.'' Advancements in medicine, public health, and technology have enabled more and more of us to live longer and healthier lives. However, when medical treatment can no longer promise a continuation of life, patients and their families should not have to fear that the process of dying will be marked by preventable pain, avoidable distress, or care that is inconsistent with their values or wishes.

The fact is, dying is a universal experience, and it is time to re-examine how we approach death and dying and how we care for people at the end of their lives. Clearly, there is more that we can do to relieve suffering, respect personal choice and dignity, and provide opportunities for people to find meaning and comfort at life's conclusion.

Unfortunately, most Medicare patients and their physicians do not currently discuss death or routinely make advance plans for end-of-life care. As a result, about one-fourth of Medicare funds are now spent on care at the end of life that is geared toward expensive, high-technology interventions and ''rescue'' care. While most Americans say they would prefer to die at home, studies show that almost 80 percent die in institutions where they may be in pain, and where they are subjected to high-tech treatments that merely prolong suffering.

Moreover, according to a Dartmouth study conducted by Dr. Jack Wennberg, where a patient lives has a direct impact on how that patient dies. The study found that the amount of medical treatment Americans receive in their final months varies tremendously in the different parts of the country, and it concluded that the determination of whether or not an older patient dies in the hospital probably has more to do with the supply of hospital beds than the patient's needs or preference.

The Advance Planning and Compassionate Care Act is intended to help us improve the way our health care system serves patients at the end of their lives. Among other provisions, the bill makes a number of changes to the Patient Self-Determination Act of 1990 to facilitate appropriate discussions and individual autonomy in making difficult discussions about end-of-life care. For instance, the legislation requires that every Medicare beneficiary receiving care in a hospital or nursing facility be given the opportunity to discuss end-of-life care and the preparation of an advanced directive with an appropriately trained professional within the institution. The legislation also requires that if a patient has an advanced directive, it must be displayed in a prominent place in the medical record so that all the doctors and nurses can clearly see it.

The legislation will expand access to effective and appropriate pain medications for Medicare beneficiaries at the end of their lives. Severe pain, including breakthrough pain that defies usual methods of pain control, is one of the most debilitating aspects of terminal illness. However, the only pain medication currently covered by Medicare in an outpatient setting is that which is administered by a portable pump.

It is widely recognized among physicians treating patients with cancer and other life-threatening diseases that self-administered pain medications, including oral drugs and transdermal patches, offer alternatives that are equally effective in controlling pain, more comfortable for the patient, and much less costly than the pump. Therefore, the Advance Planning and Compassionate Care Act would expand Medicare to cover self-administered pain medications prescribed for the relief of chronic pain in life-threatening diseases or conditions.

In addition, the legislation authorizes the Department of Health and Human Services to study end-of-life issues for Medicare and Medicaid patients and also to develop demonstration projects to develop models for end-of-life care for Medicare beneficiaries who do not qualify for the hospice benefit, but who still have chronic debilitating and ultimately fatal illnesses. Currently, in order for a Medicare beneficiary to qualify for the hospice benefit, a physician must document that the person has a life expectancy of six months or less. With some conditions—like congestive heart failure—it is difficult to project life expectancy with any certainty. However, these patients still need hospice-like services, including advance planning, support services, symptom management, and other services that are not currently available.

Finally, the legislation establishes a telephone hotline to provide consumer information and advice concerning advance directives, end-of-life issues and medical decision making and directs the Agency for Health Care Policy and Research to develop a research agenda for the development of quality measures for end-of-life care. In this regard,

Senator ROCKEFELLER and I are particularly appreciative that Senator BILL FRIST has incorporated our recommendation that end-of-life healthcare be added as a priority population in the Agency for Health Care Policy and Research's overall mission and duties in the bipartisan legislation he introduced last week to reauthorize the Agency.

The legislation we are introducing today is particularly important in light of the current debate on physician-assisted suicide. The desire for assisted suicide is generally driven by concerns about the quality of care for the terminally ill; by the fear of prolonged pain, loss of dignity and emotional strain on family members. Such worries would recede and support for assisted suicide would evaporate if better palliative care and more effective pain management were widely available.

Mr. President, patients and their families should be able to trust that the care they receive at the end of their lives is not only of high quality, but also that it respects their desires for peace, autonomy and dignity. The Advanced Planning and Compassionate Care Act that Senator ROCKEFELLER and I are introducing today will give us some of the tools that we need to improve care of the dying in this country, and I urge all of my colleagues to join us as cosponsors.●

By Mr. BAUCUS (for himself and Mr. CRAIG):

S. 629. A bill to amend the Federal Crop Insurance Act and the Agricultural Market Transition Act to provide for a safety net to producers through cost of production crop insurance coverage, to improve procedures used to determine yields for crop insurance, to improve the noninsured crop assistance program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

''CROP INSURANCE IMPROVEMENT ACT OF 1999''

● Mr. BAUCUS. Mr. President, I rise today to announce the introduction of the Crop Insurance Improvement Act of 1999. Senator CRAIG and I are introducing this bill today to provide a safety net to our agricultural producers and make rural America stronger than ever.

I especially would like to thank Senator CRAIG's staff, Wayne Hammon, who has worked diligently with my staff in bringing together this bipartisan effort for agriculture. I also compliment my colleagues Senators KERRY and ROBERTS who have introduced crop insurance reform legislation, of which I am also a cosponsor, for setting the stage for a major overhaul of the crop insurance program. This bill, the Crop Insurance Improvement Act of 1999 is designed to compliment their efforts by extending the safety net to help those producers of speciality or alternative crops who find particular challenges in the present system.

Now more than ever this crop insurance reform legislation is needed for my state's leading industry.

Mr. President, agriculture is Montana's leading industry. More than 100,000 Montanans work in farm and ranch related jobs. That is nearly 20 percent of our state's total employment. In 1998, Montana agriculture generated $2.4 billion—65 percent of our state's total economy. In Montana, agriculture is not only an integral part of our economy, it's a way of life. And that way of life is in peril.

In 1998, Montana producers were hit hard as our ag exports dropped by $570 million, and commodities such as wheat and beef plummeted to Depression-era prices.

In response to this severe economic hit, we fought hard in the 105th Congress to install a safety net where the 1996 Freedom to Farm bill fell short. With help from the White House, we were able to get almost $8 billion in emergency assistance for our producers in Montana and across the country. We responded to the crisis but there's no assurance that we won't be faced with the same problems each year.

This bill is aimed at getting Montana producers back on their feet. We do that by focusing on, and fighting for agriculture, together. I sincerely hope that 1999 will be the ''Year of Recovery.'' And I believe we can do this by maintaining focus on three goals:

We must pry open foreign markets to Montana products.

We must help agriculture producers at home.

We must install a permanent safety net to help producers weather times of crisis.

By aggressively pursuing these three goals, I am confident that we can help Montana agriculture not only recover, but be stronger than ever before.

Today, however, I would like to focus on the goal of installing a safety net to help producers during times of crisis.

Mr. President, no matter how well we are doing nationally and internationally, we must be prepared for hard times. In 1996, Congress passed the Freedom to Farm Act. Since then, wheat prices have fallen 55 percent. Who could have predicted that prices would plunge from $4.50 a bushel for wheat in 1996 to $2.91 a bushel by September 1998? This drop, triggered by a combination of natural disasters and oversupply in the marketplace, was impossible to predict.

As wheat and other agricultural commodity prices dipped to record lows, America's producers were suddenly stranded without a safety net, causing a severe financial crisis. This made it clear to me that we need a contingency plan to help us when hard times come so that we can continue to grow when times are good.

In February I hosted a crop insurance field hearing in Shelby, Montana. Ken Ackerman, Director of the Risk Management Agency traveled from Washington, D.C. to meet with Montana producers to hear first hand their concerns about crop insurance. At that hearing some of Montana's outstanding producers shared their stories, their frustrations and their ideas about reforming the system. I would like to thank Rick Sampsen, Bill Brewer, Verg Aageson, Brian Schweitzer, Nancy Peterson, Rollie Schlepp, Scott Kulbeck and Mary Schuler for taking the time to lend their voices to this important discussion. Their ideas are reflected in this legislation today which will:

(1) Install a safety net;

(2) Allow producers to buy a policy that covers their cost of production;

(3) Shorten the Actual Production History requirement for rotated crops; and

(4) Eliminate the Area Requirement for speciality crops reliant on the Noninsured Crop Disaster Assistance Program (NAP).

Simply put, Mr. President, the Crop Insurance Improvement Act of 1999 takes decisive action to help those producers who are presently in danger of losing their agricultural heritage. It provides them the flexibility to try new and alternative crops and gives them the freedom to farm, as originally intended, by allowing them the chance to build up a production history, cover their cost of production, and eventually purchase crop insurance coverage for their speciality crops. It gives producers a chance to do what they do best—farm.

Mr. President, I urge all of all of my colleagues to support this important legislation, and join Senators CRAIG and myself in getting rural America back on its feet.●

● Mr. CRAIG. Mr. President, I rise today to join my colleague Senator BAUCUS in the introduction of legislation to reform the federal agricultural crop insurance program. Like legislation introduced earlier this month by Senator ROBERTS, KERREY, myself, and others, this bill aims at bringing about common sense reform to the program and will assist farmers through the economic hardship they currently face.

The bill addresses several concerns farmers from my state and I have about the current crop insurance program. Specifically, I am pleased that the legislation includes provisions to reform the noninsured crop disaster assistance program, or NAP. NAP is used by farmers who grow ''specialty'' or ''minor'' crops across the nation.

Idaho's great agricultural economy is based on minor and non-traditional crops. We lead the nation in the production of such crops as potatoes, winter peas, and trout. Idaho is second in the production of seed peas, lentils, sugar beets, barley, and mint. Furthermore, we are in the top 5 states in the production of hops, onions, plums, sweet cherries, alfalfa, and American cheese. The needs of these producers are just as important as those of more traditional farm commodity producers.

I believe this bill to be an important step toward meaningful and sweeping

reform and includes changes that are long overdue. I look forward to working with my colleagues on the Senate Agricultural Committee to enact these important reforms and give farmers the risk management tools they need.●

By Mr. DEWINE (for himself, Mr. BROWNBACK, Mr. BINGAMAN, Mr. INOUYE, Mr. LEVIN, Mr. HOLLINGS, and Mr. DURBIN):

S. 631. A bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements; to the Committee on Finance.

IMMUNOSUPPRESSIVE DRUG COVERAGE ACT OF 1999

● Mr. DEWINE. Mr. President, for quite some time, I have worked with the organ and tissue donation community to help educate others about donation and transplant issues. With each organ that is successfully transplanted, a gift of new life is given to the recipient.

Today I rise to offer the Immunosuppressive Drug Coverage Act of 1999 to help ensure that those receiving Medicare covered transplants will be able to afford the drugs necessary to keep their bodies from rejecting their new organs. The current 36-month Medicare coverage limit is arbitrary, and frankly, sorely inadequate. We are not talking about a car lease, but about a new lease on life. This coverage can mean the difference between life and death for some, and at the very least, the difference between a Medicare transplant recipient having to experience the pain of an organ rejection, a return to dialysis—for kidney recipients—and the return to a very long waiting list for another organ.

These organs are a precious investment, and it simply defies logic that Medicare covers the initial transplant, the life-long extensive medical treatment that is needed if the organ is rejected, and a second transplant (if that person is fortunate enough to find a second organ)—but not the drugs that can help prevent the rejection of the initial transplanted organ beyond 36 months. Many Medicare transplant recipients are not able to afford these immunosuppressive drugs, so they may ration their use of the drugs or they may stop taking them altogether. Let's give them a third alternative—to keep taking the drugs and to keep their organs.●

By Mr. DEWINE (for himself, Mr. ABRAHAM, Mr. CHAFEE, Mr. GRAHAM, Mr. BOND, Mr. DOMENICI, Mr. KENNEDY, Mr. DURBIN, Mr. BURNS, and Mr. DODD):

S. 632. A bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers; to the Committee on Health, Education, Labor, and Pensions.

POISON CONTROL CENTER ENHANCEMENT AND AWARENESS ACT OF 1999

● Mr. DEWINE. Mr. President, today I rise to introduce the Poison Control Center Enhancement and Awareness Act of 1999. These poison control centers need our help. The unstable sources of funding for these centers have resulted in many of them having to close. This unfortunate decline can be reversed and cost savings can be achieved by the efficient use of these centers. I would like to thank my colleague, Senator ABRAHAM, for his efforts on behalf of this bill and I'd also like to thank my colleagues on the Congressional Prevention Coalition, Senators CHAFEE and GRAHAM of Florida, for their support of this legislation.

This bill establishes and authorizes funding for a national toll-free number to ensure that all Americans have access to poison control center services. This number will be automatically routed to the center designated to cover the caller's region. By having to only remember one national phone number, parents will be able to call this number in the event their child accidentally swallows a poisonous substance while they are away from home on vacation, and be routed to the closest poison control center for treatment advice. This system will improve access to poison control center services for everyone. It will simplify efforts to educate parents and the public about what to do in the event of a poisoning exposure.

Each year, more than 2 million poisoning are reported to poison control centers throughout the United States. More than 90% of these poisonings happen in the home—and over 50 percent of poisoning victims are children under 6 years of age. By providing expert advice to distraught parents, babysitters, poisoning victims, and health care professionals, poison control centers decrease the severity of illness and prevent deaths.

These centers serve cost-effective public health services. For every dollar spent on poison control center services, $7 in medical costs are saved by reducing the inappropriate services. Most importantly, we can save lives by ensuring that stabilizing funding sources for these centers. My home state of Ohio, for example, has 3 poison control centers—one in Columbus, Cincinnati, and Cleveland—that rely on an uncertain patchwork of federal, state, local, and private funding sources. The federal dollars that will be provided by this legislation may be used to supplement, NOT replace, existing federal, state, local, and private funds that are invested in these centers. For those states that have recently experienced the closure of the only existing poison control center in the area, this grant funding can be used to open a new center—provided it can meet certification requirements. It is essential for us to act now to prevent further closures of such valuable resources.●

By Mr. ASHCROFT:

S. 633. A bill to amend title II of the Social Security Act to require that investment decisions regarding the social security trust funds be made on the basis of the best interests of beneficiaries, and for other purposes; to the Committee on Finance.

THE SOCIAL SECURITY TRUST FUND MANAGEMENT ACT OF 1999

Mr. ASHCROFT. Mr. President, there is no more worthy government obligation than ensuring that those who paid a lifetime of Social Security taxes will receive their full Social Security benefits. Social Security is our most important social program, a contract between the government and its citizens. Americans, including one million Missourians, depend on this commitment.

Unfortunately, as you know, the Social Security system is facing some long-term difficulties. While the Trust Funds are currently building up healthy surpluses—$127 billion in FY 99—by 2013 these surpluses will disappear, and by 2032 the system is facing bankruptcy.

With this impeding crisis in mind, I have embarked on a serious examination of the Social Security system. I have spent many hours in the last few months, analyzing the history and workings of this important program, in order to figure out how we can make this program work better.

The result of this effort has been a package of important reforms designed to protect Social Security. This package is designed to protect Social Security but, more importantly, it is designed to protect the American people—from debt, from risky, unwise investments, from policies that unfairly deny Social Security to some seniors who choose to work after retirement, and from attempts to use our retirement dollars on spending purposes other than Social Security. The Social Security system has some imperfections that now make our long-term situation worse than it should be, and my package is designed to improve the system in the near term, so that we can begin the important work of reforming Social Security for the long term.

One of the points I have already introduced. Last week, I introduced the Protect Social Security Benefits Act. This legislation will prevent surpluses in the Social Security Trust Funds from financing deficits in the rest of the federal budget. Social Security should not finance irresponsible spending or tax cuts that are not otherwise paid for. No rules now stop deficit budgets from being considered. That must end.

In addition to the problem of the misdirection of Social Security's surpluses, I also want to improve the way the funds are handled. There is no getting around the fact that a key to the long-term solvency of Social Security is how the current mushrooming Social Security Trust Funds Management Act, which focuses on how the current Social Security surplus is invested and managed.

The bill requires the Secretary of the Treasury, the Managing Trustee of Social Security, to consult with the Social Security Commissioner before decisions are made about investing the Social Security trust funds. This additional step will preserve the independence of Social Security and make sure investment decisions are based on the best interest of paying current and future benefits. Currently, the Secretary of the Treasury, who is by law the Managing Trustee, has the sole authority to invest Social Security surpluses, although the law limits that authority to two types of government debt. Nowhere in current law is the Managing Trustee or the Board of Trustees or the Social Security Commissioner directed to make investment decisions on the basis of protecting current and future benefits. Making sure that we can pay benefits now and in the future should be the highest priority. My bill adds this important change to the law.

The Social Security Trust Funds Management Act explicitly forbids Social Security Trust Funds from being invested in the stock market. Chairman Alan Greenspan says that investing Social Security funds in the market is bad for Social Security and bad for our economy. When Alan Greenspan talks, Congress ought to listen. The federal government should not own corporate stocks and bonds. The government must not have undue influence over the market. In addition, having the government put Social Security taxes in the stock market adds risk to retirement, and that is a gamble I am unwilling to make for the one million Missourians who now rely on Social Security. The Social Security Trust Funds Management Act legislates that government will not gamble with Social Security in the stock market.

In addition, the bill requires Social Security to provide upon request—and, as soon as secure enough to ensure confidentiality, over the Internet—more detailed information about individuals' contribution levels and rates of return.

Let me explain the reasons for these three provisions.

In order to understand the investment of the Social Security Trust Funds, we must first answer the question, Where is the Social Security surplus? This question helps us understand what the Social Security surplus is, and is not. In truth, the Trust Funds have no money, only interest-bearing notes. It would be foolish to have money in the trust fund that earned no interest or had no return. In return for the Social Security notes, Social Security taxes are sent to the U.S. Treasury and mingled with other government revenues, where the entire pool of cash pays the government's day-to-day expenses. While the Trust Funds records now show a total of $857 billion in the fund, these assets exist only in the form of government securities, or debt. According to the Washington Post, ''The entire Social Security Trust Fund, all [$857] billion or so of it, fits readily in four ordinary brown, accordion-style folders that one can easily hold in both hands. The 174 certificates reside in a plain combination-lock filing cabinet on the third floor of the bureau's office building.''

The placement of all of these funds into nonmarketable government securities raises some questions about the law that governs the management of Social Security money. Under current law, Social Security is now an independent agency. Its Board of Trustees oversees the financial operations of Social Security. This Board is composed of six members: The Secretaries of Treasury, Labor, Health and Human Services, the Commissioner of Social Security and two members of the public nominated by the President and confirmed by the Senate. This Board reports annually to Congress on the financial status of the Trust Funds. The Secretary of Treasury is the Managing Trustee. The Managing Trustee has sole authority to invest the surplus trust funds not needed to pay current benefits. As for the investment of the fund, while the Managing Trustee is responsible for the investment, his investment options are limited by law to two types of Federal Government debt securities.

The law directs the Managing Trustee to invest the surplus in ''special issue non-marketable'' federal debt obligations, except where he determines that the purchase of ''marketable securities is ''in the public interest,'' not Social Security's interest. Sadly, it is all too easy to think of times when an administration strapped for funds might use this power to act in the public interest, and not in the interest of Social Security. It's even happened recently. In 1995, the Clinton Administration used Federal employee pension funds to prevent the government from breaching the debt limit during the two week Government shutdown.

Right now, about 99% of the securities in the trust funds are special issue non-marketable securities, and about 1% are marketable securities. These two types of bonds are similar in that they both represent government debt. They differ in that non-marketable securities are available only to the trust funds and not to the public and they pay a rate of interest that is calculated and set in law. Marketable securities, in contrast, are sold to the public at auction and pay the prevailing yield as determined by the marketplace.

This review of current law highlights three important points.

First, nowhere in current law is the Managing Trustee or the Board of Trustees or the Social Security Commissioner directed to make investment decisions on the basis of how to best protect payment of current and future benefits, taking risk into account. This is unacceptable. The Social Security Trust Funds Management Act changes this. This change is consistent with the legal concept that a trustee owes a fiduciary duty to act on behalf of the intended beneficiary, and exercises a heightened standard of care in management decisions and actions.

Second, although Social Security is an independent agency, the Secretary of Treasury retains sole authority to invest Social Security surpluses. There is a conflict of responsibilities held by the Secretary of Treasury in his dual capacity as Managing Trustee of Social Security. Presumably, the Trustee is to invest those funds as securely as possible, but also with the highest possible rate of return. The role of the Secretary of the Treasury is to manage the finances of the United States Government, minimizing, to the extent possible, the interest charges that the government has to pay in the long run. The problem is that the interest received by the trust fund is also interest that must be paid by the Treasury. If the Managing Trustee is maximizing Social Security's returns, he may not be minimizing the Treasury's interest obligations. And if he is minimizing the Treasury's interest obligations, he may not be maximizing the returns for the Social Security Trust Funds.

The Social Security Trust Funds Management Act is designed to resolve this inherent conflict, and still be consistent with the principle that Social Security is distinct from the Federal Government generally. The Act requires the Secretary of the Treasury to consult with the Social Security Commissioner before investment decisions are made. If the Social Security Commissioner disagrees with investment decisions made by the Secretary, he or she must notify the President and Congress immediately in writing.

Some experts believe that in some years and in certain market conditions it is preferable for the Trust Funds to buy marketable securities rather than non-market securities. A leading Missouri investment firm, Edward Jones, says the following:

> Edward Jones believes that this idea has merit because it provides additional flexibility to the management of the federal debt. The use of marketable securities would not only increase liquidity, but also would make bond swaps possible (the exchange of one bond issue for another) which could better facilitate management of the debt. It also could reduce interest payments by targeting specific securities when market conditions dictate.

Under the Social Security Trust Funds Management Act, the Commissioner of Social Security could so advise the Treasury Secretary. If the Treasury Secretary does not accept the recommendation of the Social Security Commissioner, the Commissioner has the duty to inform both the President and to Congress.

These investment issues take on greater importance in the context of the President's proposal to allow, for the first time in the history of Social Security, as much as $700 billion in Social Security funds to be invested in the stock market by the Government.

The legislation I am proposing reaffirms current law, making explicit

what is now implicit that this kind of governmental meddling into private markets is forbidden. Federal Reserve Chairman Alan Greenspan says this idea is bad for Social Security and bad for our economy. As I said before, when Chairman Greenspan talks, Congress ought to listen. Chairman Greenspan has said this plan ''will create a lower rate of return for Social Security recipients,'' and he ''does not believe that it is politically feasible to insulate such huge funds from a governmental direction.'' The last thing this country needs is the Federal Government directing the investment of Social Security funds based on some trendy politically-driven notion of which industries or which countries are in political favor at the moment.

The Government's putting Social Security taxes in the stock market adds risk to retirement and is a gamble I am unwilling to make for one million Missourians who get Social Security. This legislation puts Congress on record that Government will not gamble Social Security in the stock market. While I understand the impulse to harness the great potential of the stock market, significant government involvement in the stock market could tend toward economic nationalization, excess government involvement in private financial markets, and short-term, politically motivated investment decisions that could diminish Social Security's potential rate of return.

This scheme is dangerous. Imagine, if you will, what would happen if the government had $2.7 billion in the market on Black Monday, October 19, 1987, when the stock market lost 22% of its value. The trust fund's owners—America's current and future retirees—would have lost a collective total of $633 billion. Imagine seniors who depend on Social Security watching TV news of the stock market collapse, wondering, even fearing, if their Social Security was in danger. While individuals properly manage their financial portfolios to control risk, the government has no business taking these gambles with the people's money.

Even President Clinton has expressed skepticism with this idea. In Albuquerque last year, the President said the following: ''I think most people just think if there is going to be a risk taken, I'd rather take it than have the government take it for me.'' He was right then, and he is wrong now. While Americans should invest as much as they can afford in private equities to plan for their own retirements, the government should stay out of the stock market.

I recently received a letter from Todd Lawrence of Greenwood, Missouri, who wrote: ''It has been suggested that the government would invest in the stock market with my Social Security money. No offense, but there is not much that the Government touches that works well. Why would making MY investment decisions for me be any different. Looking at it from a business perspective, would the owner of a corporation feel comfortable if the government were the primary shareholder?'' Todd Lawrence understands what President Clinton does not. No corporation would want the government as a shareholder, and no investor should want the government handling their investment.

The last provision of my bill gives Americans more information about how much they can expect to receive from the Social Security system. While the Social Security Administration already provides helpful and comprehensive information about future benefits, it does not provide much information about its costs or its rate of return. While the Social Security's current practice of providing benefit information is useful, it is not enough.

It is not fair to ask Americans to plan for retirement and not tell them the actual cost or the opportunity costs of those benefits. As the American people consider that further steps are necessary to reform Social Security, they are entitled to accurate information about how well their Social Security investments are doing.

This legislation would address this problem by requiring the Social Security Administration, upon request, to provide individuals' own rate of return information, and to make such information available over the Internet as soon as it is sufficiently secure to ensure beneficiary confidentiality. Americans need to know the rate of return on Social Security. This information is vital for Americans in order for them to make the right decisions about their own financial futures, as well as the future of the Social Security program.

The Social Security Trust Funds Management Act is designed to protect the Social Security Trust Funds. More importantly, it is designed to protect the American people—from conflicts of interest, from bad investments, from misinformation, and from attempts to place the Trust Funds in risky and inappropriate investments. While I value the Social Security system, I value the American people, people like Todd Lawrence and the four million other Missourians who either pay into the Social Security system or receive Social Security benefits, more. My primary responsibility is to them. My plan to protect the Social Security system will protect the American people first, and I will work to make sure that this package becomes law.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Social Security Trust Funds Management Act of 1999''.

SEC. 2. INVESTMENT OF THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND THE FEDERAL DISABILITY INSURANCE TRUST FUND.

(a) IN GENERAL.—Section 201(d) of the Social Security Act (42 U.S.C. 401(d)) is amended to read as follows:

''(d)(1) Subject to paragraphs (2) and (3), it shall be the duty of the Managing Trustee to invest such portion of the Trust Funds as is not, in the judgment of the Trustee, required to meet current withdrawals. The Managing Trustee may purchase interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price.

''(2)(A) If the Managing Trustee, after consultation with the Commissioner of Social Security, determines that the purchase of obligations issued in accordance with paragraph (4) is in the best interest of paying current and future benefits under this title, and will not jeopardize the payment of such benefits, the Managing Trustee may purchase such obligations.

''(B) If the Commissioner of Social Security does not concur with the investment decisions of the Managing Trustee, or believes that other investment strategies are appropriate, the Commissioner shall promptly so inform the President and Congress in writing.

''(3) In investing contributions made to the Trust Funds, the Managing Trustee may not invest such contributions in private financial markets. Neither the Managing Trustee nor any other officer or employee of the Federal Government shall direct private pension plans as to what type of investments to make or in which financial markets to invest.

''(4) The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Funds. Such obligations issued for purchase by the Trust Funds shall have maturities fixed with due regard for the needs of the Trust Funds and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 percent, the rate of interest of such obligations shall be the multiple of one-eighth of 1 percent nearest such market yield. Each obligation issued for purchase by the Trust Funds under this subsection shall be evidenced by a paper instrument in the form of a bond, note, or certificate of indebtedness issued by the Secretary of the Treasury setting forth the principal amount, date of maturity, and interest rate of the obligation, and stating on its face that the obligation shall be incontestable in the hands of the Trust Fund to which it is issued, that the obligation is supported by the full faith and credit of the United States, and that the United States is pledged to the payment of the obligation with respect to both principal and interest.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

SEC. 3. INFORMATION REQUIREMENTS FOR SOCIAL SECURITY ACCOUNT STATEMENTS.

(a) IN GENERAL.—Section 1143(a) of the Social Security Act (42 U.S.C. 1320b–13(a)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by inserting '', including a separate estimate of the amount of interest earned on the contributions,'' after ''disability insurance'';

(B) in subparagraph (C)—

(i) by inserting '', including a separate estimate of the amount of interest earned on the contributions,'' after ''hospital insurance''; and

(ii) by striking ''and'' after the semicolon;

(C) in subparagraph (D), by striking the period at the end and inserting a semicolon;

(D) by redesignating subparagraphs (A), (B), (C), and (D) as subparagraphs (B), (C), (D), and (E), respectively;

(E) by inserting after the matter preceding subparagraph (B), as redesignated by subparagraph (D), the following:

''(A) the name, age, gender, mailing address, and marital status of the eligible individual;'';

(F) by adding at the end the following:

''(F) the total amount of the employer and employee contributions for the eligible individual for old-age and survivors insurance benefits, as of the end of the month preceding the date of the statement, in both actual dollars and dollars adjusted for inflation;

''(G) the projected value of—

''(i) the aggregate amount of the employer and employee contributions for old-age and survivors insurance benefits that are expected to be made by or on behalf of the individual prior to the individual attaining retirement age, in both actual dollars and dollars adjusted for inflation;

''(ii) the annual amount of old-age and survivors insurance benefits that are expected to be payable on the eligible individual's account for a single individual and for a married couple, in dollars adjusted for inflation;

''(iii) the total amount of old-age and survivors insurance benefits payable on the eligible individual's account for the individual's life expectancy, in dollars adjusted for inflation, identifying—

''(I) the life expectancy assumed;

''(II) the amount of benefits received on the basis of each $1 of contributions made by or on behalf of the individual; and

''(III) the projected annual rate of return for the individual, taking into account the date on which the contributions are made in the eligible individual's account and the date on which the benefits are paid;

''(iv) the total amount of old-age and survivors insurance benefits that would have accumulated on the eligible individual's account on the date on which the individual attains retirement age if the contributions for such individual had been invested in Treasury 10-year saving bonds at the prevailing interest rate for such bonds as of the end of the month preceding the date of the statement, and, alternatively, in the Standard and Poor's 500, or an equivalent portfolio of common stock equities that are based on a broad index of United States market performance, in dollars adjusted for inflation, identifying—

''(I) the date of retirement assumed;

''(II) the interest rate used for the projection; and

''(III) the amount that would be received on the basis of each $1 of contributions made by or on behalf of the individual;

''(H) the average annual rate of return, adjusted for inflation, on the Treasury 10-year saving bond as of the date of the statement;

''(I) the average annual rate of return, adjusted for inflation, on the Standard and Poor's 500, or an equivalent portfolio of common stock equities that are based on a broad index of United States market performance, for the preceding 25 years;

''(J) a brief statement that identifies—

''(i) the balance of the trust fund accounts as of the end of the month preceding the date of the statement;

''(ii) the annual estimated balance of the trust fund accounts for each of the succeeding 30 years; and

''(iii) the assumptions used to provide the information described in clauses (i) and (ii), including the rates of return and the nature of the investments of such trust fund accounts; and

''(K) a simple 1-page summary and comparison of the information that is provided to an eligible individual under subparagraphs (G), (H), and (I).''; and

(2) by striking paragraph (3) and inserting the following:

''(3) The estimated amounts required to be provided in a statement under this section shall be determined by the Commissioner using a general methodology for making such estimates, as formulated and published at the beginning of each calendar year by the Board of Trustees of the trust fund accounts. A description of the general methodology used shall be provided to the eligible individual as part of the statement required under this section.

''(4) The Commissioner of Social Security shall notify an individual who receives a social security account statement under this section that the individual may request that the information described in paragraph (2) be determined on the basis of relevant information provided by the individual, including information regarding the individual's future income, marital status, date of retirement, or race.

''(5) For purposes of this section—

''(A) the term 'dollars adjusted for inflation' means—

''(i) dollars in constant or real value terms on the date on which the statement is issued; and

''(ii) an amount that is adjusted on the basis of the Consumer Price Index.

''(B) the term 'eligible individual' means an individual who—

''(i) has a social security account number;

''(ii) has attained age 25 or over; and

''(iii) has wages or net earnings from self-employment; and

''(C) the term 'trust fund account' means—

''(i) the Federal Old-Age and Survivors Insurance Trust Fund; and

''(ii) the Federal Disability Insurance Trust Fund.''.

(b) MANDATORY PROVISION OF STATEMENTS THROUGH MEANS SUCH AS THE INTERNET.—Section 1143(c)(2) of the Social Security Act (42 U.S.C. 1320b–13(c)(2)) is amended—

(1) in the first sentence, by inserting ''(which shall include the Internet as soon as the Commissioner of Social Security determines that adequate measures are in place to protect the confidentiality of the information contained in the statement)'' before the period; and

(2) by striking the second and third sentences.

(c) TECHNICAL AMENDMENT.—Section 1143 of the Social Security Act (42 U.S.C. 1320b–13) is amended by striking ''Secretary'' each place it appears and inserting ''Commissioner of Social Security''.

(d) EFFECTIVE DATE.—The amendments made by this Act shall apply to statements provided for fiscal years beginning with fiscal year 2000.

By Mr. MACK (for himself, Mr. GRAMS, Mr. LIEBERMAN, and Mr. KYL):

S. 635. A bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment; to the Committee on Finance.

THE PRINTED CIRCUIT INVESTMENT ACT OF 1999

Mr. MACK. Mr. President, today, along with Senators GRAMS, LIEBERMAN, and KYL, I introduce the Printed Circuit Investment Act of 1999. This bill would allow manufacturers of printed wiring boards and printed wiring assemblies, known as the electronic interconnection industry, to depreciate their production equipment in 3 years rather than the 5 year period under current law.

As we approach the 21st century, our Nation's Tax Code should not stand in the way of technological progress. Printed wiring boards and assemblies are literally central to our economy, as they are the nerve centers of nearly every electronic device from camcorders and televisions to medical devices, computers and defense systems. But the Tax Code places U.S. manufacturers at the disadvantage relative to their Asian competitors, because of different depreciation treatment. This disadvantage is particularly difficult for U.S. firms to bear, as the interconnection industry consists overwhelmingly of small firms that cannot easily absorb the costs inflicted by an irrationally-long depreciated schedule.

As technology continues to advance at light speed, the exhilaration of competition in a dynamic market is dampened by the effects of a tax code that has not kept pace with these changes. Obsolete interconnection manufacturing equipment is kept on the books long after this equipment has gone out the door. Companies with the competitive fire to enter such a rapidly-evolving industry must constantly invest in new state-of-the art equipment, replacing obsolete equipment every 18 to 36 months just to remain competitive. U.S. investments in new printed wiring board and assembly manufacturing equipment have nearly tripled since 1991—growing from $847 million to an estimated $2.4 billion.

But this investment is taxed at an artificially-high rate, because deductions for the cost of the equipment are spread over a period that is several years longer than justified. The industry is at the mercy of tax laws passed in the 1980s, which were based on 1970s-era electronics technology. It is no wonder that the market share of U.S. interconnection companies has been cut in half over this period. Our Tax Code should not continue to undermine the competitiveness of American businesses. The opportunity is before us to correct the tax laws that dictate how rapidly board manufacturers and electronic assemblers can depreciate equipment needed to fabricate and assemble circuit boards.

The Printed Circuit Investment Act of 1999 will provide modest tax relief to the electronics interconnection industry and the 250,000 Americans, residing in every state in the Union, whose jobs rely on the success of this industry. This industry should get fair and accurate tax treatment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Printed Circuit Investment Act of 1999''.

SEC. 2. 3-YEAR DEPRECIABLE LIFE FOR PRINTED WIRING BOARD AND PRINTED WIRING ASSEMBLY EQUIPMENT.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any printed wiring board or printed wiring assembly equipment.''

(b) 3-YEAR CLASS LIFE.—Subparagraph (B) of section 168(g)(3) of such Code is amended by inserting after the item relating to subparagraph (A)(iii) the following new item:

''(A)(iv) ..... 3''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to equipment placed in service after the date of the enactment of this Act.

By Mr. SCHUMER:

S. 637. A bill to amend title 18, United States Code, to regulate the transfer of firearms over the Internet, and for other purposes; to the Committee on the Judiciary.

THE INTERNET GUN TRAFFICKING ACT OF 1999

● Mr. SCHUMER. Mr. President, today I am introducing the Internet Gun Trafficking Act of 1999. The Act would plug a gaping loophole in the enforcement of federal firearms laws—the ability of felons and minors to find guns for sale on-line and illegally acquire those guns without detection.

The Internet affords computer users—including children and felons—easier-than-ever access to individuals offering firearms for sale. It also facilitates firearms transactions in which sellers and buyers need not meet face-to-face. For these reasons, individuals who are legally prohibited from purchasing or selling firearms can turn to the Internet to find others willing to engage in gun transactions with them—either knowing or not knowing of the illegality of such transactions. Unlike firearms sales at gun dealerships and even gun shows, illegal Internet firearms sales occur ''sight unseen,'' thus presenting significant enforcement challenges for federal, state and local authorities.

In particular, a number of Internet web-sites are designed specifically to allow individuals who are not licensed firearms dealers to offer their firearms for sale. These individuals post phone numbers or e-mail addresses by which potential buyers may contact them. Unfortunately, the operators of these web-sites do not monitor the interactions between firearms sellers and buyers. Thus, sellers and buyers may with ''no-questions-asked'' and little prospect of detection evade laws prohibiting sales of certain types of firearms, prohibiting firearms sales to felons and minors, and prohibiting the direct shipment of firearms to unlicensed persons.

Last month, eBay—a popular on-line auction site that had allowed users to list firearms for sale—changed its policy to prohibit auctions selling firearms, explaining: ''The current laws governing the sale of firearms were created for the non-Internet sale of firearms. These laws may work well in the real world, but they work less well for the on-line trading of firearms, where the seller and the buyer rarely meet face-to-face. The on-line seller cannot readily guarantee that the buyer meets all the qualifications and complies with the laws governing the sale of firearms.''

The Internet Gun Trafficking Act of 1999 would end the unlicensed sale of firearms using the Internet.

First, it would require anyone who operates an Internet web-site which offers firearms for sale or otherwise facilitates the sale of firearms posted or listed on the web-site to become a federally licensed firearms manufacturer, importer, or dealer. Currently, persons who operate web-sites that post classified advertisements for the sale of hundreds of firearms need not be licensed under federal law, even though such sales may be intricately linked to their trade or business and provide them with substantial profits. Requiring these persons to secure a federal firearms license would, among other things, enable them to more actively monitor firearms transactions facilitated by their web-sites.

Second, it would require anyone who operates an Internet web-site which offers firearms for sale or otherwise facilitates the sale of firearms posted or listed on the web-site to notify the Secretary of the Treasury of the address of the web-site. This requirement aims to facilitate necessary law enforcement investigations of Internet firearms sales.

Third, it would require anyone who operates an Internet web-site which posts or lists firearms for sale on behalf of other persons to serve as a ''middleman'' for any resulting gun transactions. Under the bill, the web-site operators in question would do this by, first, prohibiting the posting of information on these sites that would enable prospective firearms sellers and buyers to contact one another directly (such as phone numbers or e-mail addresses), and thus bypass involvement by web-site operators, and, second, requiring that all firearms sold as a result of being listed on their web-sites be shipped to them, as federally licensed firearms dealers, rather than directly to the buyers. Once the operator of the web-site received a firearm from the seller, it would have to comply with federal firearms laws in transferring the firearm to the buyer, including laws requiring that firearms be shipped to a licensed dealer in an unlicensed buyer's state rather than directly to an unlicensed buyer.

And fourth, it would prohibit unlicensed individuals who offer firearms for sale on ''gun show'' web-sites from shipping firearms sold as a result of being listed on such web-sites to anyone other than the web-site operator.

Certainly, there is much to embrace about the Internet. It facilitates commercial competition and places a wealth of valuable and formerly inaccessible information at the fingertips of computer users. But as we praise this important new medium of communication and commerce, we cannot afford to ignore its potential for facilitating illegal and dangerous conduct. I believe that the Internet Gun Trafficking Act of 1999 is a measured and appropriate response to the challenges posed by the Internet to the enforcement of federal firearms laws. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 637

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet Gun Trafficking Act of 1999''.

SEC. 2. REGULATION OF INTERNET FIREARMS TRANSFERS.

(a) PROHIBITIONS.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

''(z) REGULATION OF INTERNET FIREARMS TRANSFERS.—

''(1) IN GENERAL.—It shall be unlawful for any person to operate an Internet website, if a purpose of the website is to offer 1 or more firearms for sale or exchange, or is to otherwise facilitate the sale or exchange of 1 or more firearms posted or listed on the website, unless—

''(A) the person is licensed as a manufacturer, importer, or dealer under section 923;

''(B) the person notifies the Secretary of the Internet address of the website, and any other information concerning the website as the Secretary may require by regulation; and

''(C) if any firearm posted or listed for sale or exchange on the website is not from the business inventory or personal collection of that person—

''(i) the person, as a term or condition for posting or listing the firearm for sale or exchange on the website on behalf of a prospective transferor, requires that, in the event of any agreement to sell or exchange the firearm pursuant to that posting or listing, the firearm be transferred to that person for disposition in accordance with clause (iii);

''(ii) the person prohibits the posting or listing on the website of any information (including any name, nickname, telephone number, address, or electronic mail address) that is reasonably likely to enable the prospective transferor and prospective transferee to contact one another directly prior to the shipment of the firearm to that person under clause (i), except that this clause does not include any information relating solely to the manufacturer, importer, model, caliber, gauge, physical attributes, operation, performance, or price of the firearm; and

''(iii) with respect to each firearm received from a prospective transferor under clause (i), the person—

''(I) enters such information about the firearm as the Secretary may require by regulation into a separate bound record;

''(II) in transferring the firearm to any transferee, complies with the requirements of this chapter as if the firearm were being transferred from the business inventory of that person; and

''(III) if the prospective transferor does not provide the person with a certified copy of a valid firearms license issued to the prospective transferor under this chapter, submits to the Secretary a report of the transfer or other disposition of the firearm on a form specified by the Secretary, which report shall not include the name of, or any other identifying information relating to, the transferor.

''(2) TRANSFERS BY PERSONS OTHER THAN LICENSEES.—It shall be unlawful for any person who is not licensed under section 923 to transfer a firearm pursuant to a posting or listing of the firearm for sale or exchange on an Internet website described in paragraph (1) to any person other than the operator of the website.''.

(b) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

''(7) Whoever willfully violates section 922(z)(2) shall be fined under this title, imprisoned not more than 2 years, or both.''.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. MCCAIN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 98, a bill to authorize appropriations for the Surface Transportation Board for fiscal years 1999, 2000, 2001, and 2002, and for other purposes.

S. 115

At the request of Ms. SNOWE, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 115, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 290

At the request of Mr. ABRAHAM, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of S. 290, a bill to establish an adoption awareness program, and for other purposes.

S. 322

At the request of Mr. CAMPBELL, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 322, a bill to amend title 4, United States Code, to add the Martin Luther King, Jr. holiday to the list of days on which the flag should especially be displayed.

S. 326

At the request of Mr. JEFFORDS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 326, a bill to improve the access and choice of patients to quality, affordable health care.

S. 331

At the request of Mr. JEFFORDS, the names of the Senator from Washington [Mr. GORTON] and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of S. 331, a bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

S. 346

At the request of Mrs. HUTCHISON, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 346, A bill to amend title XIX of the Social Security Act to prohibit the recoupment of funds recovered by States from one or more tobacco manufacturers.

S. 414

At the request of Mr. GRASSLEY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 414, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind, and for other purposes.

S. 429

At the request of Mr. DURBIN, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 429, a bill to designate the legal public holiday of ''Washington's Birthday'' as ''Presidents' Day'' in honor of George Washington, Abraham Lincoln, and Franklin Roosevelt and in recognition of the importance of the institution of the Presidency and the contributions that Presidents have made to the development of our Nation and the principles of freedom and democracy.

S. 463

At the request of Mr. ABRAHAM, the names of the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Kansas [Mr. BROWNBACK], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 463, a bill to amend the Internal Revenue Code of 1986 to provide for the designation of renewal communities, to provide tax incentives relating to such communities, and for other purposes.

S. 472

At the request of Mr. GRASSLEY, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 472, a bill to amend title XVIII of the Social Security Act to provide certain medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under part B of the medicare program, and for other purposes.

S. 502

At the request of Mr. ASHCROFT, the names of the Senator from Wyoming [Mr. ENZI], the Senator from Oklahoma [Mr. INHOFE], and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 502, a bill to protect social security.

S. 531

At the request of Mr. ABRAHAM, the names of the Senator from Indiana [Mr. BAYH], the Senator from Indiana [Mr. LUGAR], the Senator from North Dakota [Mr. DORGAN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Kansas [Mr. BROWNBACK], and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 531, a bill to authorize the President to award a gold medal on behalf of the Congress to Rosa Parks in recognition of her contributions to the Nation.

S. 542

At the request of Mr. ABRAHAM, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1986 to expand the deduction for computer donations to schools and allow a tax credit for donated computers.

S. 597

At the request of Mr. SMITH, the names of the Senator from Minnesota [Mr. GRAMS] and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of S. 597, a bill to amend section 922 of chapter 44 of title 28, United States Code, to protect the right of citizens under the Second Amendment to the Constitution of the United States.

SENATE RESOLUTION 33

At the request of Mr. MCCAIN, the names of the Senator from Utah [Mr. HATCH], the Senator from North Carolina [Mr. EDWARDS], the Senator from Delaware [Mr. BIDEN], the Senator from Nevada [Mr. REID], the Senator from Indiana [Mr. LUGAR], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Resolution 33, a resolution designating May 1999 as ''National Military Appreciation Month.''

SENATE RESOLUTION 34

At the request of Mr. TORRICELLI, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Resolution 34, a resolution designating the week beginning April 30, 1999, as ''National Youth Fitness Week.''

SENATE RESOLUTION 47

At the request of Mr. MURKOWSKI, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Resolution 47, a resolution designating the week of March 21 through March 27, 1999, as ''National Inhalants and Poisons Awareness Week.''

SENATE RESOLUTION 50

At the request of Mr. SPECTER, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Resolution 50, a resolution designating March 25, 1999, as ''Greek Independence Day: A Day of Celebration of Greek and American Democracy.''

SENATE RESOLUTION 57

At the request of Mr. GRAHAM, the names of the Senator from Iowa [Mr. GRASSLEY] the Senator from Missouri [Mr. ASHCROFT], the Senator from Nevada [Mr. REID], the Senator from Georgia [Mr. COVERDELL], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Resolution 57, a resolution expressing the sense of the Senate regarding the human rights situation in Cuba.

SENATE RESOLUTION 60

At the request of Mr. MACK, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Resolution 60, a resolution recognizing the plight of the Tibetan people on the fortieth anniversary of Tibet's attempt to restore its independence and calling for serious negotiations between China and the Dalai Lama to achieve a peaceful solution to the situation in Tibet.

SENATE RESOLUTION 61—COMMENDING THE HONORABLE J. ROBERT KERREY, U.S. SENATOR FROM NEBRASKA, ON THE 30TH ANNIVERSARY OF THE EVENTS GIVING RISE TO HIS RECEIVING THE MEDAL OF HONOR

Mr. DASCHLE (for himself, Mr. LOTT, Mr. EDWARDS, Mr. HAGEL, Mr. CLELAND, Mr. MCCAIN, Mr. HARKIN, Mr. KERRY, Mr. ROBB, Mr. REED, Mr. SMITH of New Hampshire, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. ASHCROFT, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BRYAN, Mr. BUNNING, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. CRAPO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. FRIST, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MACK, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. TORRICELLI, Mr. VOINOVICH, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 61

Whereas Honorable J. Robert ''Bob'' Kerrey has served the United States with distinction and honor for all of his adult life;

Whereas 30 years ago this past Sunday, on March 14, 1969, Bob Kerrey lead a successful sea-air-land (SEAL) team mission in Vietnam during which he was wounded;

Whereas he was awarded the Medal of Honor for his actions and leadership during that mission;

Whereas according to his Medal of Honor citation, ''Lt. (j.g.) Kerrey's courageous and inspiring leadership, valiant fighting spirit, and tenacious devotion to duty in the face of almost overwhelming opposition sustain and enhance the finest traditions of the U.S. Naval Service'';

Whereas during his 10 years of service in the United States Senate, Bob Kerrey has demonstrated the same qualities of leadership and spirit and has devoted his considerable talents to working on social security, Internal Revenue Service, and entitlement reform, improving health care services, guiding the intelligence community and supporting the agricultural community: Now, therefore, be it

Resolved, That the United States Senate commends the Honorable J. Robert Kerrey for the service that he rendered to the United States, and expresses its appreciation and respect for his commitment to and example of bipartisanship and collegial interaction in the legislative process.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Honorable J. Robert Kerrey.

SENATE RESOLUTION 62—PROCLAIMING THE MONTH OF JANUARY 1999 AS ''NATIONAL CERVICAL HEALTH MONTH''

Mr. MACK (for himself Mrs. FEINSTEIN, Mr. ABRAHAM, Mr. AKAKA, Mrs. BOXER, Mr. CLELAND, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. FITZGERALD, Mr. FRIST, Mr. GRASSLEY, Mr. GORTON, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. INOUYE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MURKOSWKI, Mrs. MURRAY, Mr. ROTH, Mr. SARBANES, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS. Mr. THURMOND, and Mr. TORRICELLI) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 62

Whereas cervical cancer annually strikes approximately 15,000 American women;

Whereas cervical cancer strikes 1 out of 50 American women;

Whereas estimates show that physicians will diagnose more than 150,000 American women with cervical cancer during the 1990's;

Whereas according to the National Cancer Institute Surveillance, Epidemiology and End Results Program, the 5-year survival rate of cervical cancer victims is 91 percent when physicians detect the cancer at an early stage;

Whereas cervical cancer is preventable, yet remains one of the leading causes of death among American women;

Whereas according to the United States Centers for Disease Control and Prevention, the mortality rate among American women with cervical cancer declined between 1960 and 1997, yet recently began to rise;

Whereas cervical cancer survivors show tremendous courage and determination in the face of adversity; and

Whereas it is important that the United States support individuals with cervical cancer, as well as their families and loved ones, through public awareness and education programs: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the month of January 1999 as ''National Cervical Health Month''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.

● Mr. MACK. Mr. President, in an effort to help increase awareness and education about cervical cancer, and to pay tribute to women who have battled the disease, today I am submitting a Senate Resolution to designate the month of January as ''National Cervical Health Month.'' I am pleased that Senator DIANNE FEINSTEIN and 31 bipartisan colleagues in the Senate have agreed to be original co-sponsors of this Senate Resolution. I understand that Representative JUANITA MILLENDER-MCDONALD will be introducing similar legislation in the United States House of Representatives, and I would like to commend her for the leadership she has shown in this important effort.

I would also like to pay tribute to Ms. Carol Ann Armenti, Director of the Center for Cervical Health in Toms River, New Jersey. Ms. Armenti has worked tirelessly on behalf of cervical cancer patients and their families, and she has been a true leader in educating women about this disease. In January, her organization, along with the American Medical Women's Association, launched the National Cervical Cancer Public Education Campaign. The leadership of Ms. Armenti will have a lasting impact upon the lives of women of today, and future generations will be the beneficiaries of her work.

Mr. President, the issue of cervical cancer is one which is deeply personal to my wife, Priscilla, and to me. In 1990, our daughter, Debbie, was diagnosed with cervical cancer. Because of our family history with cancer, Debbie was aware that she had an increased risk of cancer and she made sure to take advantage of early detection screening procedures. Fortunately, her cervical cancer was detected at an early stage, and she was treated successfully with surgery. Not long after her treatment, she have birth to our third grandson. Debbie's experience with cervical cancer exemplifies the fact that early detection saves lives.

According to the American Cancer Society, nearly 1,000 women in Florida will be diagnosed with cervical cancer in 1999. This year, Florida will have the third largest number of new cases of cervical cancer. Yet, despite significant progress being made in the war on cancer, not all segments of the U.S. population have benefitted to the fullest extent from the advances made in the understanding of cancer. According to the U.S. Institute of Medicine report, ''The Unequal Burden of Cancer,'' rates of cervical cancer are significantly higher in Hispanic and African-American women. We simply must reinforce our efforts to eradicate this terrible disease.

Research, education, and early detection are the most effective weapons we have in the war on cervical cancer.

Research is the key to finding a cure for cervical cancer, and significant progress is being made in this regard. Last month, the National Cancer Institute (NCI) took the rarely-used step of issuing a Clinical Announcement urging physicians to give strong consideration to adding chemotherapy to radiation therapy in the treatment of invasive cervical cancer. According to NCI Director Rick Klausner, this will likely change the standard of treatment for cervical cancer. Dr. Mitchell Morris of the M.D. Anderson Cancer Center called this new treatment approach, ''the first fundamental advance in the treatment of cervical cancer in more than 40 years.''

I'm also proud to say that several cutting-edge cervical cancer studies are taking place in my home state of Florida. Scientists at the University of Miami Sylvester Cancer Center are studying a new type of cervical cancer immunotherapy. They are developing ''killer cells'' specifically designed to target cancer cells which express human papilloma virus (HPV). By eradicating these cells, the hope is to kill the tumor, even if the cancer has spread. At the H. Lee Moffitt Comprehensive Cancer Center in Tampa, studies are underway to develop a cervical cancer vaccine using some of the same characteristics of the human papilloma virus. They are also examining biomarkers to detect cervical cancer before malignant changes occur.

The U.S. Senate and House, working in bipartisan cooperation, have embarked upon an historic mission to double funding for the National Institutes of Health over the next five years. Last year, the Congress overwhelmingly passed, with bipartisan support, a $2 billion increase for the National Institutes of Health—the largest increase in NIH history.

With the tremendous progress being made in cervical cancer and other diseases, I was astonished and extremely disappointed the President's FY 2000 budget only calls for a meager 2.6% increase for medical research at the NIH. This is simply unacceptable. The President's proposed budget means a ceasefire in the war against cancer, Parkinson's disease, Alzheimer's disease and other illnesses. In effect, the President's proposal is a formal act of retreat in the heat of battle.

I was also shocked that the President's FY 2000 budget calls for not one additional penny of funding for the Breast and Cervical Cancer Screening program at the U.S. Centers for Disease Control & Prevention. For FY 1999, the bipartisan Congress provided a $16 million increase. By contrast, the President's request for FY 1999 was for an increase of less than $1 million for this life-saving program, and he proposes no increase for next year.

When it comes to cervical cancer research and screening, the President just doesn't get it. It's obvious the leadership on these initiatives will have to come from this end of Pennsylvania Avenue. It will be through the bipartisan commitment of the Senate and House that these important research and detection programs will receive adequate funding. I want to pledge my support, and to work with my colleagues in Congress to make sure this happens. Far too many lives depend upon it.

Mr. President, I encourage my colleagues to co-sponsor this resolution to designate January as ''National Cervical Health Month.''●

SENATE RESOLUTION 63—RECOGNIZING AND HONORING JOE DIMAGGIO

Mr. MOYNIHAN (for himself, Mr. LOTT, Mr. DASCHLE, Mrs. FEINSTEIN, Mr. LEAHY, Mr. JOHNSON, Mr. HELMS, Mr. BUNNING, and Mr. SCHUMER) submitted the following resolution; which was considered and agreed to:

S. RES. 63

Whereas Joseph Paul ''Joe'' DiMaggio was born in Martinez, California, on November 25, 1914;

Whereas Joe DiMaggio was the son of Sicilian immigrants, Joseph Paul and Rosalia DiMaggio, and was the 2d of 3 brothers to play Major League Baseball;

Whereas Joe DiMaggio played 13 seasons in the major leagues, all for the New York Yankees;

Whereas Joe DiMaggio, who wore number 5 in Yankee pinstripes, became a baseball icon in the 1941 season by hitting safely in 56 consecutive games, a major league record that has stood for more than 5 decades and has never been seriously challenged;

Whereas Joe DiMaggio compiled a .325 batting average during his storied career and played on 9 World Series championship teams;

Whereas Joe DiMaggio hit 361 home runs during his career, while striking out only 369 times;

Whereas Joe DiMaggio was selected to the Baseball Hall of Fame in 1955, 4 years after his retirement;

Whereas Joe DiMaggio in 1969 was voted Major League Baseball's greatest living player;

Whereas Joe DiMaggio served the Nation in World War II as a member of the Army Air Corps;

Whereas Joe DiMaggio was tireless in helping others and was devoted to the ''Joe DiMaggio Children's Hospital'' in Hollywood, Florida;

Whereas Joe DiMaggio will be remembered as a role model for generations of young people; and

Whereas Joe DiMaggio transcended baseball and will remain a symbol for the ages of talent, commitment, and achievement: Now, therefore, be it

Resolved, That the Senate recognizes and honors Joe DiMaggio—

(1) for his storied baseball career;

(2) for his many contributions to the Nation throughout his lifetime; and

(3) for transcending baseball and becoming a symbol for the ages of talent, commitment, and achievement.

AMENDMENTS SUBMITTED

NATIONAL MISSILE DEFENSE ACT OF 1999

LANDRIEU (AND OTHERS) AMENDMENT NO. 72

Ms. LANDRIEU (for herself, Mr. LEVIN, Ms. SNOWE, Mr. DORGAN, Mr. BREAUX, Mr. LIEBERMAN, Mr. BAYH, and Mr. EDWARDS) proposed an amendment to the bill (S. 257) to state the policy of the United States regarding the deployment of a missile defense capable of defending the territory of the United States against limited ballistic missile attack; as follows:

At the end, add the following:

SEC. 3. POLICY ON REDUCTION OF RUSSIAN NUCLEAR FORCES.

It is the policy of the United States to seek continued negotiated reductions in Russian nuclear forces.

COMPLIANCE WITH ETHICAL STANDARDS FOR FEDERAL PROSECUTORS

HATCH AMENDMENT NO. 73

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill (H.R. 808) to extend for 3 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted; as follows:

At the appropriate place, insert the following:

SEC. . COMPLIANCE WITH ETHICAL STANDARDS FOR FEDERAL PROSECUTORS.

Section 801 of title VIII of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (Public Law 105–277) is amended by striking subsection (c) and inserting the following:

''(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.''.

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings entitled ''Securities Fraud On The Internet.'' The upcoming hearings will examine the common securities frauds perpetrated on the Internet and the ways consumers can protect themselves from such frauds, as well as current online trading issues. Specifically, the hearing will focus on federal and state enforcement efforts to combat securities fraud on the Internet, particularly penny stock fraud, and whether federal and state consumer education programs designed to disseminate information about securities fraud on the Internet are adequate.

The hearings will take place on Monday, March 22nd at 1:30 p.m. in room

342 of the Dirksen Senate Office Building and Tuesday, March 23rd, at 9:30 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Timothy J. Shea of the subcommittee staff at 224–3721.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources. The purpose of this hearing is to receive testimony on S. 323, a bill to redesignate the Black Canyon of the Gunnison National Monument as a national park and establish the Gunnison Gorge National Conservation Area, and for other purposes; S. 338, a bill to provide for the collection of fees for the making of motion pictures, television productions, and sound tracks in units of the Department of the Interior, and for other purposes; S. 568, a bill to allow the Department of the Interior and the Department of Agriculture to establish a fee system for commercial filming activities in a site or resource under their jurisdiction.

The hearing will take place on Wednesday, March 24, 1999 at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole or Shawn Taylor of the committee staff at (202) 224–6969.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources. The purpose of this hearing is to receive testimony on the economic impact of the Kyoto Protocol to the Framework Convention on Climate Change.

The hearing will take place on Thursday, March 25, 1999, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those who wish to testify or submit a written statement should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Julia McCaul or Colleen Deegan at (202) 224–8115.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Senate Subcommittee on Forests and Public Land Management.

The hearing will take place on Wednesday, April 21, 1999 at 2 p.m. in SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this oversight hearing is to discuss the Memorandum of Understanding signed by multiple agencies regarding with Lewis and Clark bicentennial celebration.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Amie Brown or Mark Rey at (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, March 16, 1999, at 9:30 a.m. in closed session, to receive testimony on alleged Chinese espionage at Department of Energy laboratories, and at 11 a.m. in open session, to receive testimony on the Department of Energy national security programs, in review of the Defense authorization request for fiscal year 2000 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DOMENICI. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Tuesday, March 16, 1999 beginning at 10 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on ''Educating the Disadvantaged'' during the session of the Senate on Tuesday, March 16, 1999, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the sessions of the Senate on Wednesday, March 17, 1999; Thursday, March 18, 1999; and Friday March 19, 1999. The purpose of these meetings will be to consider S. 326, the Patients' Bill of Rights, and several nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing entitled, ''The President's Fiscal Year 2000 Budget Request for the Small Business Administration.'' The hearing will begin at 10 a.m. on Tuesday, March 16, 1999, in room 428A Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. DOMENICI. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a joint hearing with the Senate Appropriations Subcommittee on Labor, Health and Human Services, and Education to assess the roles and preparedness of the Department of Health and Human Services and the Department of Veterans Affairs to respond to a domestic chemical or biological weapon attack.

The hearing will be held on Tuesday, March 16, 1999, at 9:30 a.m., in room 106 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, WETLANDS, PRIVATE PROPERTY, AND NUCLEAR ENERGY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Energy be granted permission to conduct a hearing on EPA's Risk Management Plan Program of the Clean Air Act Tuesday, March 16, 9:30 a.m., Hearing Room (SD–406).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Armed Services Subcommittee on Emerging Threats and Capabilities be authorized to meet at 2:30 P.M. on Tuesday, March 16, 1999, in closed/open session, to receive testimony on information warfare and critical infrastructure protection, in review of the defense authorization request for fiscal year 2000 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FOREST AND PUBLIC LAND MANAGEMENT

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Forest & Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, March 16, for purposes of conducting a Subcommittee on Forest & Public Lands Management hearing which is scheduled to begin at 2 p.m. The purpose of this oversight hearing is to consider the President's proposed budget for FY 2000 for the U.S. Forest Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE AND FINANCE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on International Trade and Finance of the Committee on Banking, Housing, and Urhan Affairs be authorized to meet during the session of the

Senate on Tuesday, March 16, 1999, to conduct a hearing on reauthorization of the Export Administration Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

WE THE PEOPLE

● Mr. SESSIONS. Mr. President, on May 1–3, 1999 more than 1,200 students from across the United States will be in Washington DC to compete in the national finals of the ''We the People . . . The Citizen and the Constitution'' program. I am proud to announce that a class from Corner High School from the city of Warrior will represent my home state of Alabama in this national event. These young scholars have worked diligently to reach the national finals and through their experience have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The ''We the People . . . The Citizen and the Constitution'' program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The three-day national competition is modeled after hearings in the United States Congress. These hearings consist of oral presentations by high school students before a panel of adult judges. The students testify as constitutional experts before a ''congressional committee,'' that is, the panel of judges representing various regions of the country and a variety of appropriate professional fields. The student testimony is followed by a period of questioning during which the judges probe students for their depth of understanding and ability to apply their constitutional knowledge.

The student team from Corner High School is currently conducting research and preparing for the upcoming national competition in Washington, DC. I am extremely proud of the students and teacher and wish them the best of luck at ''We the People'' national finals. I look forward to greeting them when they visit Capitol Hill.●

TRIBUTE TO PHIL LERMAN

● Mr. FEINGOLD. Mr. President, I rise today to offer a tribute to my friend, Phil Lerman, who recently passed away. Throughout his lifetime, Phil was a steadfast advocate for civil rights. Perhaps most impressive, is the number of different avenues Phil marched down to promote the ideals of equal justice. As a former union representative, state official, businessman, founder and director of the employment and training institute at the University of Wisconsin–Milwaukee, Phil helped to promote racial and social justice throughout the state of Wisconsin.

Phil said that he learned his ''strategizing and speechifying,'' as he called it, for civil rights from his father. In a 1997 interview, Phil stated ''I learned to respect people as people. Color meant nothing.'' Perhaps it was this respect that caused Phil to devote time to preforming countless acts of community service, such as donating free tires to the vehicles that carried so many civil rights marchers.

Phil was an inspiration to the entire state. I am sure those in the greater Milwaukee area will miss his guidance and helpful advice. However, I am proud to remember, and of course repeat, his well-worn statement, ''a house doesn't care who lives there.'' I can only hope that we will someday translate this ideal into reality.●

THE 43rd ANNIVERSARY OF TUNISIA'S INDEPENDENCE

● Mr. ABRAHAM. Mr. President, I rise today in celebration of the forty-third anniversary of Tunisia's independence. Although Tunisia received its independence in 1956, America has maintained close ties with Tunisia since 1797. This historic partnership has promoted peace and cooperation between our two countries.

In America's early years, Tunisia provided important commercial advantages and a safe harbor for American vessels establishing maritime trade in the Mediterranean. During America's darkest hour, the Civil War, Tunisia supported the anti-slavery movement, and its leaders conversed with American officials on the significance of human dignity.

During World War II, Tunisia continued to fight for the values of the free world by supporting American and Allied forces as they landed in North Africa. After the war, Tunisia sought American support for its independence; and in 1956, the United States was the first world power to recognize Tunisia's newly won sovereignty.

Since that time, the United States and Tunisia have garnered further achievements in bilateral cooperation. Impressive strides have been taken in advancing the development of Tunisia, as well as sustaining further security and stability in all relations. Tunisia and the United States have also been important allies in striving for progress towards peace in the Middle East.

As the relationship between Tunisia and the United States continues to grow, I believe it is important that we take time to observe this important milestone. In echoing the historic words of President Dwight Eisenhower, it is my sincere hope and desire that Tunisia continues to consider the United States as its friend and partner in freedom.●

TRIBUTE TO DUKE ELLINGTON

● Mr. SCHUMER. Mr. President, I would like to take this opportunity to recognize the 100th birthday of one of the greatest American Jazz musicians and composers this country has seen, Duke Ellington. Duke's contributions to today's music are immeasurable, and his hundreds of compositions, including ''Satin Doll'' and ''Take the A-Train,'' are all time classics. Jazz and all genres of music will forever be influenced by the sophisticated, yet emotional and spiritual sound of Duke Ellington's music.

Born in a segregated Washington, DC neighborhood, Edward Kennedy ''Duke'' Ellington, achieved an enduring legacy and popularity that has not been equaled or exceeded. He developed his talent during the Harlem Renaissance period and became one of the top five band leaders from 1926–74. Duke's contribution to music can be summed up best by Miles Davis: ''All musicians should get down on their knees once a year and thank the Lord for Duke Ellington.''

Duke was the first jazz composer to produce extended compositions, such as ''Creole Rhapsody'' and ''Reminiscing in Tempo'' as well as a series of long works like ''Jump for Joy,'' ''Black, Brown, and Beige,'' and ''A Drum is a Woman.'' He wrote for large orchestras, small combos, vocalists, choirs, movies, theater, church and nightclubs. He produced thousands of songs for more than fifty years, which are still as fresh and vibrant today as they were when he wrote them decades ago.

It is my honor to express an enthusiastic tribute to this jazz legend during this year-long celebration of his amazing contributions to American music.●

RECOGNITION OF THE 160TH ANNIVERSARY OF THE GEORGIA HISTORICAL SOCIETY

● Mr. CLELAND. Mr. President, I rise today to acknowledge and salute the Georgia Historical Society, which on March 20, 1999 will celebrate 160 years of collecting and preserving our rich history for all Georgians.

The Georgia Historical Society was chartered in 1839 by the Georgia General Assembly and currently has more than 5,000 members from all across Georgia and the entire nation. As a non-profit organization, the Society remains the oldest cultural institution in the State of Georgia and is one of the oldest organizations in our country. For sixteen decades the Society has collected, preserved and shared Georgia's rich history with many Georgians through various educational outreach programs and research services.

The Georgia Historical Society's archives and library are operated in cooperation with the office of Georgia's Secretary of State. During my years as Secretary of State I relied on the Georgia Historical Society on numerous occasions for valuable information concerning our State's history, and I truly believe that the Society is a real treasure that all of us should use and enjoy.

The Society has the most extensive collection in the country of manuscripts, books, maps, photographs, newspapers, architectural drawings, portraits and artifacts related to Georgia's history that date back to the founding of the Colony and continue through the twentieth century.

The Georgia Historical Society stays in close contact with the citizens it serves so well. Since the founding of the Colony of Georgia at Savannah on February 12, 1733 by James Edward Oglethorpe, Georgians have celebrated this historical date. This year the Georgia Historical Society and the Savannah-Chatham County Public Schools continued this tradition by organizing and hosting the Georgia Heritage Celebration on Thursday, February 12, 1999. As part of the Celebration the Society honors Georgians who have made a positive impact on the state. This year's honoree was Peter Tonedd, who was a master carpenter and tavern owner. Previous honorees have included James Jackson, Revolutionary War hero, U.S. Representative, U.S. Senator and Governor of Georgia; Mary Telfair, philanthropist in the arts and medicine; Abraham Baldwin, signer of the Declaration of Independence; Juliette G. Low, Founder of the Girl Scouts; Andrew Bryan, a Baptist minister; and James Oglethorpe.

The Society also holds monthly lectures on a wide variety of historical topics and yearly conferences focusing on local communities, and conducts special tours at various historical locations across Georgia. The Georgia Historical Society also publishes books and a quarterly news magazine, Footnotes, on Georgia's history and genealogy, as well as The Georgia Historical Quarterly, a journal on Georgia's history that was established in 1917.

I would especially like to commend the Georgia Historical Society for diligently working on behalf of all Georgians in the historical preservation of our State's history. The Society provides a vast collection of records and artifacts to thousands of researchers and genealogists from around the world.

I applaud the Georgia Historical Society for preserving and teaching our State's history. We must not allow the pride and glory of our State and our Nation to be forgotten—it must be celebrated by all. The benefits of enriching the people of Georgia by promoting a better understanding of our past and who we are as Georgians must not be ignored.

Mr. President, I ask that you and my colleagues join me in recognizing and honoring the dedication and hard work of the Georgia Historical Society during the past 160 years. The efforts put forth by the Society have preserved and will continue to preserve our rich history by ensuring a future for Georgia's past.●

TRIBUTE TO GEORGE MOSSE

● Mr. FEINGOLD. Mr. President, I rise today to express my sorrow over the loss of my friend, and former teacher, George Mosse. George was truly an extraordinary man, a great humanist and a wonderful teacher. While his 25 books were influential, he would not want us to forget that we were almost deprived of his brilliance. Lucky for us, George was able to escape the Nazis at age 19 by way of Switzerland.

I had the honor of studying under George at the University of Wisconsin–Madison. His lectures were unique in both their style and subject. George first developed his dynamic, bellowing style while at the University of Iowa, where he taught classes of up to 1,000 students. He is perhaps best known for his work on Nazi Germany, but his later work on subjects like national symbols and monuments was equally as impressive.

In addition to his countless articles and essays, George was simply a wonderful teacher. His challenging and invigorating teaching style compelled his students to learn. I think many of his students naively took for granted his endless lack of energy and ideas. This expectation is understandable given his almost ritualistic process of exploring a new and dynamic area of study each decade. The University of Wisconsin, and the field of history, have truly lost an asset, but his work will surely live on.●

THE ASSASSINATION OF ROSEMARY NELSON

● Mr. MOYNIHAN. Mr. President, tomorrow is St. Patrick's Day. And in a few days, we will celebrate the first anniversary of the Good Friday peace accord, which our esteemed former colleague, George Mitchell, negotiated, and which promises to resolve and heal one of the oldest conflicts in Europe: Northern Ireland. Now comes the distressing news that a car bomb has taken the life of Rosemary Nelson, a prominent Roman Catholic human rights lawyer. A group known as the ''Protestant Red Hand Defenders,'' outlawed earlier this month for bomb and grenade attacks, has claimed responsibility for this heinous and cowardly act.

These dissidents, and others like them—both Protestant and Roman Catholic—are determined to prevent peace. They claim they act on religious principles but, in fact, they worship only violence. Fortunately, they are the minority. Northern Ireland is on the path to peace.

Rosemary Nelson was 40. She was married and had three children. She was murdered because she represented nationalists in high profile cases, including the Roman Catholic residents of the Garvaghy Road area in Portadown who asked, simply, that Protestant unionists pick some other place to march.

Last September, Ms. Nelson testified before the House International Relations Subcommittee on International Operations and Human Rights. She spoke about the harassment and intimidation of defense lawyers who represent Republicans and nationalists, and she accused the Royal Ulster Constabulary (RUC) of threatening her and her family.

These are serious charges. Unfortunately, she is not alone. Last year, I met with Sean McPhilemy, author of The Committee: Political Assassination in Northern Ireland. The book, based on a documentary shown on British television in 1991, charges that current and former members of the RUC have colluded with Loyalist terrorists to murder Irish Republicans and nationalists. McPhilemy struck me as an earnest, principled, and exceedingly careful journalist—married to a Protestant, by the way.

Tomorrow, Senators DODD, KENNEDY, MACK, and I, and our House colleagues—Speaker of the House HASTERT, Minority Leader GEPHARDT, and Congressman WALSH—will release our annual ''Friends of Ireland Executive Committee St. Patrick's Day Statement.'' In that statement, we will express our concern about protection for lawyers active on human rights cases, and bring to attention a report on the subject by the Special Rapporteur of the U.N. Commission on Human Rights.

Attacks on the judiciary—whether on judges, lawyers, officers of the courts, or witnesses—are intolerable and represent, perhaps, the gravest threat to the fragile peace which now prevails, tenuously, over Northern Ireland. There can be no permanent peace in Northern Ireland if these charges regarding the RUC are true. RUC complicity in political assassinations would be state-sponsored terrorism.

Authorities in Northern Ireland need to catch and prosecute Rosemary Nelson's murderers, and they need to ensure that members of the RUC did not aid and abet these cowards. The RUC needs to go under a microscope. If there are problems, a new law enforcement authority, which has the unquestioned support of nationalists and unionists, needs to be established.

Rosemary Nelson saw the seeds of peace planted in Northern Ireland. I hope and pray that her three children will live to see those seeds blossom into something permanent and beautiful.●

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 83–420, as amended by Public Law 99–371, reappoints the Senator from Arizona (Mr. MCCAIN) to the Board of Trustees of Gallaudet University.

RECOGNIZING AND HONORING JOE DIMAGGIO

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 63, introduced earlier today by Senators MOYNIHAN, LOTT, and others.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:.

A resolution (S. Res. 63) recognizing and honoring Joe DiMaggio.

The Senate proceeded to consider the resolution.

Mr. MOYNIHAN. ''Joe, Joe DiMaggio, we want you on our side!'' Well, he is on the other side now, but stays with us in our memories.

Mine are, well, special to me. It would be in 1938 or 1939 in Manhattan. The Depression lingered. Life was, well, life. But there was even so somebody who made a great difference and that was Lou Gehrig of the New York Yankees. I admired him as no other man. Read of him each day, or so it seemed, in the Daily News. And yet I had never seen him play. One summer day my mother somehow found the needful sixty cents. Fifty cents for a ticket at the Stadium, a nickel for the subway up and back. Off I went in high expectation. But Gehrig, disease I must assume was now in progress, got no hit. A young player I had scarce noticed hit a home run. Joe DiMaggio. It began to drizzle, but they kept the game going just long enough so there would be no raincheck. I went home lifeless and lay on my bed desolate.

Clearly I was in pain, if that is the word. The next day my mother somehow came up with yet another sixty cents. Up I went. And the exact same sequence occurred.

I went home. But not lifeless. To the contrary, animated.

For I hated Joe DiMaggio. For life.

I knew this to be a sin, but it did not matter. Gehrig retired, then died. My animus only grew more animated.

Thirty years and some went by. I was now the United States Permanent Representative to the United Nations. One evening I was having dinner at an Italian restaurant in midtown. As our company was about finished, who walked in but DiMaggio himself, accompanied by a friend. They took a table against the wall opposite. I watched. He looked over, smiled and gave a sort of wave. Emboldened, as we were leaving, I went over to shake hands. He rose wonderfully to the occasion.

I went out on 54th Street as I recall. And of a sudden was struck as if by some Old Testament lightening. ''My God,'' I thought, ''he has forgiven me!'' He must have known about me all those years, but he returned hate with love. My soul had been in danger and he had rescued me.

Still years later, just a little while ago the Yankees won another pennant. Mayor Guiliani arranged a parade from the Battery to City Hall. Joe was in the lead car; I was to follow. As we waited to get started, I went up to him, introduced myself and told of having watched him at the Stadium these many years ago. ''But I have to tell you,'' I added, ''Lou Gehrig was my hero.''

''He was my hero, too,'' said Joe.

Well, Joe, too, was a hero to many people. Few have embodied the American dream or created a more enduring legend than ''Joltin'' Joe DiMaggio. And fewer have carried themselves, both on and off the field, with the pride and courtliness of, as Hemingway said, ''the great DiMaggio.''

Born the fourth son of an immigrant fisherman—two other brothers also played in the majors—he joined the Yankees in 1936 after dropping out of high school and grew into the game's most complete center fielder. He wore No. 5 and became the heir to Babe Ruth (No. 3) and Lou Gehrig (No. 4) in the team's pantheon. DiMaggio was the team's superstar, on a team of superstars, for 13 seasons. By the time his career ended in 1951, he had played in 11 All-Star games and 10 World Series, nine of which the Yankees won.

The ''Yankee Clipper'' was acclaimed at baseball's centennial in 1969 as ''the greatest living ballplayer.'' Even his main rival Ted Williams, admitted this: ''. . . he [DiMaggio] was the greatest baseball player of our time. He could do it all.'' DiMaggio played 1,736 games with the Yankees. He had a career batting average of .325 and hit 361 home runs while striking out only 369 times. He could indeed do it all.

But there is one statistic for which DiMaggio will be most remembered: his 56-game hitting streak, possibly the most enduring accomplishment in all of sports. The streak began on May 15, 1941, with a single in four at-bats against the Chicago White Sox, and ended 56 games later on July 17 during a hot night in Cleveland. In 56 games, DiMaggio had gone to bat 223 times and delivered 91 hits, including 15 home runs, for a .408 average. He drew 21 walks, twice was hit by pitched balls, scored 56 runs, and knocked in 55. He hit in every game for two months, striking out just seven times.

But DiMaggio's game was so complete and elegant that statistics cannot do it justice. The New York Times said in an editorial when he retired, ''The combination of proficiency and exquisite grace which Joe DiMaggio brought to the art of playing center field was something no baseball averages can measure and that must be seen to be believed and appreciated.''

Today, I join the Majority Leader and Senators CHARLES SCHUMER (D-NY), BARBARA BOXER (D-CA), DIANNE FEINSTEIN (D-CA), and JIM H. BUNNING (R-KY) in introducing a resolution that honors Joe DiMaggio for his storied baseball career and for all that he has done off the field. As we reflect on his life and mourn his death, I ask that we consider ourselves extremely lucky for knowing such a man, particularly in this age of pampered sports heroes, when ego and self-importance often overshadow what is occurring on the field. Even I, who resented DiMaggio for displacing my hero Gehrig, have come to realize that there will never be another like Joseph Paul DiMaggio.

I ask unanimous consent that the March 9, 1999, New York Times editorial and George F. Will's op-ed in the Washington Post on Joe DiMaggio be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 9, 1999]

THE DIMAGGIO MYSTIQUE

It has been almost half a century since Joe DiMaggio turned his center-field kingdom in Yankee Stadium over to a strapping youngster named Mickey Mantle, but even now, in death, Joe DiMaggio still owns that green acreage. He roamed the great open spaces there with a grace and grandeur that redefined the art of fielding. Even more than the prolific hitting that earned him enduring fame, his silky, seemingly effortless motion across the outfield grass was the signature of his game.

DiMaggio was one of those rare sports stars, like Babe Ruth, Muhammad Ali and Michael Jordan, who not only set new standards of athletic excellence but also became a distinctive part of American culture. As stylish off the field as on, DiMaggio was an icon of elegance and success, a name as recognizable on Broadway and in Hollywood as at the ball park. Millions of baby boomers who never saw DiMaggio play instantly understood the reference in the Paul Simon song of the 1960's—''Where have you gone, Joe DiMaggio? A nation turns its lonely eyes to you.''

Other men have hit the ball farther and run the bases faster, but few have excelled at so many elements of the sport. DiMaggio's 56-game hitting streak in 1941 remains untouched, one of the great benchmarks of consistency and productivity in all of sports. In 13 seasons with the Yankees, DiMaggio produced a career batting average of .325, hit 361 home runs and knocked in more than 100 runs in a season nine times. He played in 10 World Series, 9 of which the Yankees won. He possessed one of the sweetest swings baseball has ever seen, a hitting stroke of such precision that he struck out only 369 times in his major league career.

But the numbers alone do not explain the DiMaggio mystique. Part of it was his brief, turbulent marriage to Marilyn Monroe and his taste for nightclubs and tony hotels. Part of it was his $100,000-a-year salary, a small fortune in his days as a Yankee. For younger fans, there was also an almost mystical link to the past—DiMaggio joined the Yankees in 1936, just two years after Babe Ruth left and before Lou Gehrig retired. His appearance on ceremonial occasions at Yankee Stadium in recent years was thrilling for fans of all ages.

His fame also flowed from the aura of quiet dignity that DiMaggio carefully preserved throughout his career and retirement. With the notable exception of his service as a pitchman for the Bowery Savings Bank and Mr. Coffee brewing appliances, he dodged the celebrity limelight. The mystery only added to his allure.

DiMaggio, who was 84, died with opening day a month away. Though he will no longer return to Yankee Stadium to deliver the ceremonial first pitch, his singular record of

athletic achievement and classy conduct will be long revered.

(From the Washington Post, Mar. 9, 1999]

DIMAGGIO'S ELEGANT CAREER

(By George F. Will)

There is peculiar pathos to the lives of most great athletes because their careers compress life's trajectory of aspiration, accomplishment and decline. Then what? For most, the rest of life, which is most of life, is anticlimax, like that of

Runners whom renown outran,
And the name died before the man,

But there was seamlessness to Joe DiMaggio's life in and after the game. The patina of age did not dull the luster of his name. Baseball, sport of the long season and much history, has an unusually rich statistical geology—a sediment of numbers. Some numbers are so talismanic that simply citing them suffices to identify the achievement and achiever.

Examples are 116 (victories in a season, 1906 Cubs); 511 (career victories, Cy Young); 1.12 (season earned run average, Bob Gibson, 1968); 130 (stolen bases in a season, Rickey Henderson, 1982); 755 (home runs, career, Hank Aaron); 60, then 61 and now 70 (home runs by Babe Ruth in 1927, Roger Maris in 1961 and Mark McGwire in 1998); .406 (most recent .400 season, Ted Williams, 1941). And baseball's most instantly recognized number, 56—Joe DiMaggio's consecutive game hitting streak in 1941.

The Streak, as it is still known, was stunning, even if a sympathetic official scorer at Yankee Stadium may have turned an error or two into hits. It took two sensational plays by Indians third baseman Ken Keltner to stop The Streak, and the next day DiMaggio started a 16-game streak. His 56 has not been seriously challenged in 57 seasons. His 1993 minor league streak of 61 has not been matched since then.

Because of baseball's grinding everydayness, professionals place a premium on consistency. DiMaggio brought his best, which was baseball's best, to the ballpark every day. What he epitomized to a mesmerized nation in 1941—steely will, understated style, heroism for the long haul—the nation would need after Dec. 7.

However, the unrivaled elegance of his career is defined by two numbers even more impressive than his 56. They are 8 and 0.

Eight is the astonishingly small difference between his 13-year career totals for home runs (361) and strikeouts (369). (In the 1986 and 1987 season, Jose Canseco hit 64 home runs and struck out 332 times.) Zero is the number of times DiMaggio was thrown out going from first to third.

On the field, the man made few mistakes. Off the field, he made a big one in his marriage to Marilyn Monroe. But even it enlarged his mythic status. As when they were in Japan, and she visited U.S. troops in Korea. Upon her return to Tokyo, she said to him, ingenuously: You've never heard cheering like that—there must have been fifty or sixty thousand. He said, dryly: Oh, yes I have.

They had gone to Japan at the recommendation of a friend (Lefty O'Doul, manager of the San Francisco Seals), who said that in a foreign country they could wander around without drawing crowds. The friend did not know that Japan was then obsessed with things American, especially baseball stars and movie stars. When the most famous of each category landed, it took their car six hours to creep to their hotel through more than a million people.

As a Californian, he represented baseball's future—he and San Diego's Ted Williams, a 21-year-old rookie in 1939, when DiMaggio was 24. DiMaggio, son of a San Francisco fisherman, was proud, reserved and as private as possible for the bearer—the second generation—of America's premium athletic tradition, the Yankee greatness established by Babe Ruth and Lou Gehrig. DiMaggio felt violated by the sight of Marilyn filming the famous scene in ''The Seven Year Itch'' when a gust of wind from a Manhattan subway grate blows her skirt up above her waist.

Pride, supposedly one of the seven deadly sins, is often a virtue and the source of others. DiMaggio was pride incarnate, and he and Hank Greenberg did much to stir ethnic pride among Italian Americans and Jews. When as a player DiMaggio had nothing left to prove, he was asked why he still played so hard, every day. Because, he said, every day there is apt to be some child in the stand who has never before seen me play.

An entire ethic, the code of craftsmanship, can be tickled from that admirable thought. Not that DiMaggio practiced the full range of his craft. When one of his managers was asked if DiMaggio could bunt, he said he did not know and ''I'll never find out, either.''

DiMaggio, one of Jefferson's ''natural aristocrats,'' proved that a healthy democracy knows and honors nobility when it sees it.

Mrs. BOXER. Mr. President, as a Senator from Joe DiMaggio's home state, I am pleased to be an original cosponsor of the resolution honoring ''the Yankee Clipper.'' Joe DiMaggio holds a unique place in the hearts of every baseball fan and every Californian.

Joe DiMaggio was born in 1914 in Martinez, California, near San Francisco Bay. Like many Californians then and now, Joe was the child of immigrants. His parents came from Sicily to California, where his father found work as a fisherman.

At age 18, Joe began his professional baseball career with the San Francisco Seals, where he set a Pacific Coast League record that still stands by hitting in 61 straight games. Three years later, he joined the New York Yankees and immediately became one of baseball's brightest stars. In 1941, his 56-game hitting streak set a major league record that most baseball fans consider the game's greatest achievement.

DiMaggio played 13 seasons for the Yankees, winning three Most Valuable Player awards and playing on nine World Series championship teams. He was selected to the Baseball Hall of Fame in 1955 and voted Major League Baseball's greatest living player in 1969.

Joe DiMaggio was a great ballplayer, but he was far more than that. Joe was a role model for young people and a model citizen. At the height of his career, he left baseball to volunteer for the Army Air Corps and served three years in World War II. In his later years he worked tirelessly to support the Joe DiMaggio Children's Hospital in Hollywood, Florida.

I will never forget a televised image of Joe DiMaggio from a decade ago. In October 1989, as the Oakland A's and San Francisco Giants were about to start a World Series game, a mammoth earthquake struck the Bay Area. Fire swept through San Francisco's Marina district, where DiMaggio lived at the time. That night, as residents struggled to deal with the earthquake and its aftermath, they saw a man who—despite his advanced age—showed the strength and dignity to walk calmly through the rubble and reassure his neighbors. At this moment, as always, DiMaggio was an inspiration to us all.

From his early days with the San Francisco Seals to his service as baseball's greatest ambassador, Joe DiMaggio was the epitome of elegance, grace, and good sportsmanship.

Mr. SCHUMER. Mr. President, I am pleased to join Senators MOYNIHAN, LOTT, and BOXER in cosponsoring this resolution to honor Mr. Joe DiMaggio. On March 8, 1999, Joe DiMaggio, one of the greatest baseball players of all-time, died in Tampa, Florida. The Yankee Clipper led his life with class and dignity. A true hero and the quintessential American, Mr. DiMaggio gave people something to believe in.

Playing 13 seasons in the major leagues, all for the New York Yankees, Number 5 not only took left field in Yankee Stadium, but also took over New York and baseball showing us his talent day in and day out. When one looks at the numbers accumulated by Mr. DiMaggio, it is hard to think of anyone who did it better and in such a genuine fashion. As a baseball player, few have approached DiMaggio. With a .325 batting average, nine World Series rings, a 56 consecutive game hitting streak in 1941 (a major league record that has never been seriously challenged for more than 5 decades), 361 home runs with only 369 strike-outs, Joe DiMaggio transcended the game of baseball and will remain a symbol for the ages of talent, commitment, and grace. As Simon and Garfunkel sang in their hit song Mrs. Robinson, ''where have you gone Joe DiMaggio. . ..'', the answer is, into our hearts, which will stay with us forever.

But Joe DiMaggio was more than a great baseball player, he transcended the game and will remain a symbol for the ages—a symbol of talent, commitment, and grace. With so few true heroes today, we are lucky that millions of New Yorkers and baseball fans everywhere could live their lives touched by a hero like Joe DiMaggio.

Mr. COCHRAN. I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 63) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S.RES. 63

Joseph Paul ''Joe'' DiMaggio was born in Martinez, California, on November 25, 1914;

Whereas Joe DiMaggio was the son of Sicilian immigrants, Joseph Paul and Rosalia DiMaggio, and was the 2d of 3 brothers to play Major League Baseball;

Whereas Joe DiMaggio played 13 seasons in the major leagues, all for the New York Yankees;

Whereas Joe DiMaggio, who wore number 5 in Yankee pinstripes, became a baseball icon in the 1941 season by hitting safely in 56 consecutive games, a major league record that has stood for more than 5 decades and has never been seriously challenged;

Whereas Joe DiMaggio compiled a .325 batting average during his storied career and played on 9 World Series championship teams;

Whereas Joe DiMaggio hit 361 home runs during his career, while striking out only 369 times;

Whereas Joe DiMaggio was selected to the Baseball Hall of Fame in 1955, 4 years after his retirement;

Whereas Joe DiMaggio in 1969 was voted Major League Baseball's greatest living player;

Whereas Joe DiMaggio served the Nation in World War II as a member of the Army Air Corps;

Whereas Joe DiMaggio was tireless in helping others and was devoted to the ''Joe DiMaggio Children's Hospital'' in Hollywood, Florida;

Whereas Joe DiMaggio will be remembered as a role model for generations of young people; and

Whereas Joe DiMaggio transcended baseball and will remain a symbol for the ages of talent, commitment, and achievement: Now, therefore, be it

Resolved, That the Senate recognizes and honors Joe DiMaggio—

(1) for his storied baseball career;

(2) for his many contributions to the Nation throughout his lifetime; and

(3) for transcending baseball and becoming a symbol for the ages of talent, commitment, and achievement.

MEASURE PLACED ON THE CALENDAR—H. CON. RES. 42

Mr. COCHRAN. Mr. President, I ask unanimous consent that H. Con. Res. 42 be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, MARCH 17, 1999

Mr. COCHRAN. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 a.m., on Wednesday, March 17. I further ask that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved, and the Senate then begin a period of morning business until 11 a.m., with Senators permitted to speak for up to 10 minutes each, with the following exceptions: Senator VOINOVICH, 15 minutes; Senator GRASSLEY, 10 minutes; Senator SCHUMER, 10 minutes; Senator BINGAMAN, 10 minutes; Senator KERREY of Nebraska, 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I ask unanimous consent that following morning business, the Senate resume consideration of S. 257, the national missile defense bill, under the provisions of the unanimous consent agreement reached earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. COCHRAN. For the information of all Senators, the Senate will reconvene tomorrow at 10 a.m. and begin a period of morning business until 11 a.m. Following morning business, the Senate will resume consideration of the missile defense bill, with a limited number of amendments remaining in order. The leader has expressed his hope that the Senate can complete action on the bill by early afternoon on Wednesday.

For the remainder of the week, the leader has stated that the Senate may consider a Kosovo resolution and/or the supplemental appropriations bill.

Therefore, Members should expect rollcall votes during Wednesday's session and throughout the reminder of the week.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. COCHRAN. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:59 p.m., adjourned until Wednesday, March 17, 1997, at 10 a.m.